

IN THE MATTER OF The *Real Estate Act*, R.S.A. 2000 c. R-5

AND IN THE MATTER OF Chloe Anne Cartwright, then Associate registered with Century 21 the Professionals Ltd and currently registered to Vision Realty Inc. o/a Century 21 Bravo Realty.

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Chloe Anne Cartwright, at all relevant times Associate registered with Century 21 the Professionals Ltd (**“the Professionals Ltd”**) is deserving of sanction and/or whether she breached the requirements of the *Real Estate Act* (the **“Act”**) or the Rules prescribed pursuant thereto (the **“Rules”**)
2. The Executive Director and Chloe Cartwright agree to resolve all matters against Ms. Cartwright on the terms and conditions set out herein.

AGREED STATEMENT OF FACTS

3. Ms. Cartwright was, at all relevant times, registered with Century 21 the Professionals, as an Associate. Ms. Cartwright is currently registered with Vision Realty Inc. o/a Century 21 Bravo Realty. Ms. Cartwright has been registered as an Associate with the Real Estate Council of Alberta since on or about September, 1997 and has been a real estate agent in Alberta since June 1991.
4. Ms. Cartwright provides real estate services primarily in the region of southern Alberta.
5. Ms. Cartwright has a prior discipline history with RECA. On or about August 27, 2002 Ms. Cartwright entered into a Consent Agreement with the Executive Director of the Real Estate Council. The Agreement concluded investigations into the misconduct of Ms. Cartwright, wherein she made false and misleading statements to a purchaser resulting in their financial loss. Additionally, Ms. Cartwright failed to advise the Executive Director of a Judgment rendered against her in relation to a trade in real estate and resulting from her misrepresentation. Ms. Cartwright was required to pay a fine in the amount of \$3,500.00, costs and complete an educational requirement.

6. J.P. was at all material times a licensed real estate associate with Maxwell Canyon Creek in the Province of Alberta, conducting licensed activity primarily in the Southern Alberta region.
7. On or about May 29, 2007 J.P. registered the website www.j.p.com for the purpose of advertising her real estate practice and marketing her services as an industry member.
8. J.P. did not purchase the domain www.j.p.ca
9. On or about July 16, 2008 the domain name www.j.p.ca was purchased by Netfirms Inc. registrar number 978850. By registering this website domain name, Netfirms Inc. registrar number 978850 gained the rights of its exclusive use.
10. Netfirms Inc. also registered www.c21gold.ca on or about March 7, 2005. This website is for the purpose of advertising Ms. Cartwright's real estate practice and marketing her services as an industry member.
11. Website domain names with .ca affixation are regulated by the Canadian Internet Registration Authority (hereinafter "CIRA").
12. CIRA verbally confirmed that the domain addresses, www.c21gold.ca and www.j.p.ca were purchased through the actions of the same individual, Chloe Cartwright.
13. By letter dated May 10th, 2010, Ms. Cartwright admitted in writing to RECA that she, through the name Netfirms Inc. registration number 978850 intentionally purchased www.j.p.ca.
14. The laws of Canada and Alberta dealing with trade names prohibit persons from advertising their services in such a way so that confusion is or may be caused to the public, confusing the services of one person or entity with that of another.
15. On or about July 16, 2008 Ms. Cartwright created or caused to be created scripting at www.j.p.ca which automatically, and without warning to the user forwarded individuals accessing www.j.p.ca to www.c21gold.ca.

16. Direct navigation is a term used to describe the direct typing in of a website domain name. When searching on the internet, in addition to using an internet search engine, the direct typing of what the internet user is searching for is a common way of accessing information on the internet.
17. An internet user attempting to access J.P. at www.j.p.ca via direct navigation would be directed without their knowledge to Ms. Cartwright's primary internet marketing page at www.c21gold.ca.
18. There is no association between the services provided by J.P. and Ms. Cartwright, and the two are regional competitors in the local real estate industry.
19. J.P. discovered the domain address in February of 2009 and contacted her broker, who verified its use.
20. On February 12, 2009 J.P.'s broker contacted Ms. Cartwright's broker to address the issue of the domain address and advised that www.j.p.ca was directed to www.c21gold.ca.
21. In initial discussions with her broker, Ms. Cartwright offered only to resolve the matter by selling the web domain to J.P.
22. On or about February 13, 2009 Ms. Cartwright redirected www.j.p.ca to www.sedo.com, a website that parks domain names and where domain names can be sold or purchased.
23. On May 12, 2009 Ms. Cartwright was fined by CREB regarding this issue. She admitted guilt and was fined \$1,000 and required to take an educational program.

CONCLUSION

24. By reason of the matters described herein, Chloe Cartwright's conduct is deserving of sanction in that by registering the website domain name www.j.p.ca and forwarding it to www.c21gold.ca, she:
 - a. Engaged in conduct that was reckless or intentional and that misleads or deceives any person or is likely to do so, contrary to section 42(a) of the Rules made pursuant to the *Real Estate Act*, the particulars of which are that she:
 - Forwarding website domain names that a reasonable person would conclude would provide information respecting J.P. to www.c21gold.ca which provided information respecting Chloe Cartwright, when Chloe

Cartwright and J.P. had no affiliation with each other, and in fact were competitors in the same market.

- Creating a circumstance where internet consumers may reasonably conclude that there was an affiliation between Chloe Cartwright and J.P. when there was not.
- b. Engaged in Conduct which undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute, contrary to section 42(g) of the Rules made pursuant to the *Real Estate Act*, the particulars of which are that she:
- Engaged in a form of advertising of her real estate practice which unfairly took advantage of a public member's association with J.P.;
 - Engaged in activity which caused confusion to the public, directing the public to her services or business in such a way as to cause or be likely to cause confusion between her services or business and those of another contrary to Provincial and Federal laws;
 - Registering a domain name, in which you had no legitimate interest, for the purpose of disrupting or diverting the business of her competitor, and/or in bad faith;
 - Sought to sell the name to J.P. when the issue was recognized.

SETTLEMENT TERMS

25. It is agreed that the following mitigating factors are relevant to the assessment of fines in this case:
- i. Ms. Cartwright cooperated fully with the investigation of this matter;
 - ii. Ms. Cartwright has admitted the conduct and entered into this agreement, thereby avoiding the time, expense and inconvenience to witnesses;
 - iii. Ms. Cartwright has been penalized, including payment of a fine, by the Calgary Real Estate Board in a public hearing.
26. It is further agreed that the following aggravating factors are relevant to the assessment of fines in this case:
- i. Ms. Cartwright has a disciplinary history which involves an element of dishonesty;

- ii. The integrity of the industry must always be treated with paramount regard and jealously guarded;
- iii. There is a need for general and specific deterrence to assure that industry members diligently confirm that their business practices are fair and in compliance with all Federal and Provincial laws;
- iv. The misconduct endured for a period of approximately 7 months.

27. In settlement of the foregoing contraventions, it is agreed that the fines are as follows:

(a) Section 42(a)	\$2,500.00
(b) Section 42(g)	\$1,500.00

Total	\$4,000.00
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28. Chloe Anne Cartwright also agrees to pay costs in the amount of **\$500.00**.

29. Chloe Anne Cartwright agrees that as a condition of her authorization to trade in real estate, she will successfully complete, within 6 months of the ratification of this Consent Agreement, Unit 9, "Ethics, Professional Conduct and Risk Reduction" portion of the Mortgage Associate Program (MAP) course which is offered by the Real Estate Council of Alberta or a similar course at the sole discretion of the Executive Director. She will notify the Real Estate Council of Alberta upon completion of the educational requirement.

30. Chloe Anne Cartwright acknowledges that she has been given an opportunity to seek the advice of legal counsel and acknowledges that she is agreeing to the terms of settlement of her own free will.

31. Chloe Anne Cartwright is aware that a copy of this Consent Agreement will be placed on her file and may be reviewed and considered in any future disciplinary proceedings.

32. Chloe Anne Cartwright is aware that the Real Estate Council of Alberta may publish the contents of this Consent Agreement.

33. Chloe Anne Cartwright hereby waives any rights she may have under the *Real Estate Act* or other legislation or otherwise to a review, hearing, appeal, or other judicial proceeding involving the matter referred to herein.

34. These settlement terms are intended to resolve all matters described herein and, subject to the approval of the Hearing Panel, the Executive

Director will take no further action under the *Real Estate Act* or before the courts in this regard.

IN WITNESS WHEREOF the undersigned agree and accept the terms and conditions of this settlement this 28th day of July, 2011.

Signed and delivered)
in the presence of)
)
)
V.R.)
Witness to the signature)
of Chloe Anne Cartwright)

Chloe Anne Cartwright

AFFIDAVIT OF EXECUTION

CANADA) I, V.R. of
)
PROVINCE OF ALBERTA) the City of Calgary, in the Province of
Alberta)
)
TO WIT:) MAKE OATH AND SAY:

1. THAT I was personally present and did see Chloe Anne Cartwright, named in the annexed instrument, who is personally known to me to be the person named therein, duly sign and execute the same for the purpose named therein.

2. THAT the same was executed at the City of Calgary,, in the Province of Alberta, and that I am the subscribing witness thereto.

3. THAT I know the said party and she is in my belief of the full age of eighteen years.

SWORN BEFORE ME at the City)
of Calgary, in the Province of)
Alberta this 28th day of)
July, 2011.)
)
)
)
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)
)
S.D.)
A Commissioner for Oaths in and)
for the Province of Alberta)

V.R.
(signature of witness)