

**Private and Confidential**

09 January, 2012

**Letter of Reprimand Pursuant to Section 39 of the  
*Real Estate Act***

In accordance with section 39 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, Michael James Cain (Mr. Cain), at all material times, a real estate broker registered with Twin Oakes Real Estate 1993 Inc. o/a Re/Max House of Real Estate (hereafter Re/Max House of Real Estate), presently registered with Re/Max House of Real Estate to issue a letter of reprimand. The evidence giving rise to the Executive Director's decision is as follows.

Jimmy Tan Minh Diep (Mr. Diep), real estate associate registered to Unison Realty Group Ltd. at the time, was conducting property management activities in the name of Greenstreet Inc., an Alberta corporation in which he was listed as a director.

In April 2009 Mr. Diep was advised by RECA that he was not authorized to conduct property management activities on behalf of Greenstreet Inc. and was provided options to resolve this matter.

In or around June 2009 Mr. Diep came to an agreement with you, a real estate broker registered to Re/Max House of Real Estate, to transfer the property management activities to that brokerage.

Mr. Diep became registered as a real estate associate to Re/Max House of Real Estate on June 19, 2009.

You acknowledged the arrangement with Mr. Diep. You stated that you spoke with RECA audit staff concerning this arrangement and was advised that Greenstreet Inc. clients would have to sign over their account to the brokerage before the change could be made.

RECA advised you that the legislation required you to first have agreements in place to establish the conditions of trust before you could set up the trust accounts in Re/Max House of Real Estate for the owners.

During the period of June 19, 2009 to August 13, 2009 Mr. Diep, while registered to Re/Max House of Real Estate, continued to conduct property management activities under Greenstreet Inc.

On August 13, 2009 RECA again contacted Mr. Diep regarding the status of the Greenstreet Inc. property management activities. At that time, Mr. Diep was advised that these activities must cease immediately and funds held on behalf of the property owners be disbursed to them. Mr. Diep complied with RECA's direction.

During a follow up contact by RECA on August 13, 2009, you acknowledged you were not supervising Mr. Diep's property management activities. You further stated you were waiting for Mr. Diep to complete the arrangements with the property owners before transferring the trusts to the brokerage.

The Executive Director believes that this conduct is in contravention of Section 51(1)(d) of the Rules made pursuant to the *Act* which sets out that:

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

The Executive Director believes that this is conduct deserving of sanction but also believes this matter can be dealt with by way of this Letter of Reprimand.

If you dispute this Letter of Reprimand, in accordance with section 40.1(2) 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 Letter of Reprimand, please contact Dian Kuhtey, Professional Conduct Review Officer at 403-685-7904

**REAL ESTATE COUNCIL OF ALBERTA**

*Charles Stevenson, for*  
Bob Myroniuk  
Executive Director