

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: **Andrea Hlewka, Real Estate Associate**
M & M Real Estate
10013 100 Avenue (Town Centre Mall) P.O. Box 3644
High Level, AB T0H 1Z0

In accordance with s. 39 and s. 83 and the Bylaws of the *Real Estate Act*, R.S.A. 2000 c. R-5 (the "**Act**"), the Executive Director of the Real Estate Council of Alberta has determined that there is sufficient evidence of conduct deserving of sanction in regard to you, Andrea Hlewka (hereinafter "**Ms Hlewka**"), at all relevant times, real estate associate, registered with M & M Real Estate (hereafter "M & M"), to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows:

You were agent for buyer clients in the attempted purchase of a property located at 10312 106 Street, High Level, Alberta (the "property"). Your clients entered into a purchase agreement for the property, subject to a property inspection. You were advised by the seller's agent that the seller required that only a CAHPI inspector could be used for the inspection. Further, you were advised that the seller would not allow D.M. (hereinafter "**D.M.**"), a local inspector, to do the property inspection. D.M. had previously conducted a property inspection of the seller's property in relation to an earlier purchase agreement. Based on the property inspection, the purchasers decided not to waive conditions and the deal ultimately collapsed.

Your buyer clients decided, based on the cost of using a CAHPI inspector, to instead do a thorough walkthrough of the property and, if satisfied, would remove the property inspection condition. Your buyer clients advised you that they wanted D.M. to attend the walkthrough to give them his opinion on the property.

On or about September 30, 2007 at approximately 9:00 a.m., you, your buyer clients and D.M. attended at the property for the purpose of doing a thorough walkthrough of the property. You attempted to gain entry into the property using the lockbox. The code you had did not work and you were unable to enter the property through the front door. You or a person with you gained entry to the property through a basement window and unlocked the door to allow everyone entry into the property. You, your buyer clients and D.M. entered the property

and proceeded to do a thorough walkthrough. You attempted to contact a representative of the seller's brokerage after entering the property. You did not wait to speak with a representative of the seller's brokerage prior to entering the property.

The Executive director believes that your conduct in permitting D.M. to accompany you and your buyer clients to the seller's property for the purpose of a walkthrough and to permit him entry to the property for the purpose of providing his opinion on the property against the seller's instructions as well as entering or allowing a person with you to enter the property through a basement window is in contravention of section 42(g) of the Rules made pursuant to the Act (hereinafter the "Rules"), and is conduct deserving of sanction.

The Executive Director is of the opinion that the above noted conduct is in violation of section 42(g) of the Rules made pursuant to the Act which sets out that:

42 Industry members must not:

- (g) engage in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute.

In accordance with s. 39 and s. 83 of the Act and Part 4 of the Act's Bylaws, an Administrative Penalty in the amount of **\$1,500.00** 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 offense in respect of those contraventions.

This sum of **\$1,500.00** is payable to the Real Estate Council of Alberta 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 the Real Estate Council of Alberta.

If you dispute this Notice of Administrative Penalty in accordance with s. 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 Victoria Woodworth-Lynas, Case Presenter, or Flora Fok, Legal Services Administrator, at the Real Estate Council of Alberta.

DATED this 7th day of July, 2010.

REAL ESTATE COUNCIL OF ALBERTA

Per:

Bob Myroniuk
Executive Director

Cc: Margaret Jean Carroll, Broker
M&M Real Estate

Cc: Sylvia Kennedy, Broker
Century 21 Prime Realty (2002) Ltd.