

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: Robert Payne

In accordance with section 83 and the Bylaws of the *Real Estate Act* (RSA 2000 c R-5, hereinafter the “**Act**”), the Executive Director of the Real Estate Council of Alberta (hereinafter “**RECA**”) is of the opinion that you, Robert Payne (hereinafter “**Mr. Payne**”), contravened section 17(a) and/or (d) of the Act and hereby assesses an Administrative Penalty in the amount of **\$1,000.00**. The evidence giving rise to the Executive Director’s decision is as follows:

Mr. Payne was authorized as a real estate associate between June 25, 1993 and September 30, 1994. Mr. Payne has not been authorized as a real estate associate since September 30, 1994 and is not currently authorized to trade in real estate.

Country Hills is a corporation registered in Alberta. Country Hills is not presently, and never has been authorized to trade in real estate by the Real Estate Council of Alberta. Country Hills primarily sells new and pre-owned modular homes.

On or about July 2, 2008, Country Hills entered into a Listing Agreement with K.M., for the sale of a property located at 114 Ranchwood Lane, Strathmore, Alberta. Robert W. Payne was listed as the listing broker for Country Hills. Mr. Payne signed the Listing Agreement as the listing broker for Country Hills and witnessed the seller’s signature on the Listing Agreement.

This property is a manufactured home that was situated on a site that was used for residential purposes. The agreement stated:

It is understood that the undersigned will assign to the Purchaser any lease or rights that the undersigned may have to the site on which the manufactured home is located...

The Executive Director is of the opinion that the above noted conduct is in violation of section 17(a) and/or (d) of the Act which sets out that:

- 17** No person shall
- (a) trade in real estate as a real estate broker,
 - (b) [...],

- (c) [...], 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 Act's Bylaws, the Executive Director hereby assesses an Administrative Penalty in the amount of **\$1,000.00** against you.

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 **\$1,000.00** 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 15th day of July, 2010.

REAL ESTATE COUNCIL OF ALBERTA

Per: *Kevin Bacon for*
Bob Myroniuk
Executive Director