

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: Robert Lewis Polehoyki, Broker
Verico Estate Mortgage Group
312 1117 1 St SW
Calgary, AB T2R 0T9

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, Robert Polehoyki (Mr. Polehoyki), at all relevant times a mortgage broker, registered with Verico Estate Mortgage Group (Verico), presently registered with Verico, to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows.

On September 30, 2010, your associate, T.P.'s authorization as a mortgage associate was up for renewal. You, as the broker, confirm you took the responsibility of ensuring her authorization was renewed on time.

Between October 1, 2010 to January 19, 2011, T.P. believed she was authorized and carried on the activities of a mortgage associate.

January 21, 2011, T.P. contacted RECA and was informed at this time her authorization as a mortgage associate had not been renewed for 2010/2011.

Between January 21, 2011 and February 13, 2011, the subject completed the process of renewing her authorization.

February 14, 2011, the subject was authorized as a mortgage associate.

During the unauthorized period, Powell completed six deals in mortgages on behalf of Verico and received remuneration in the amount of \$26,012.

The Executive Director is of the opinion that the above noted conduct is in violation of section 66(b) of the Rules made pursuant to the Act which sets out that:

- 66 *A mortgage brokerage must not:*
- (b) *employ a person to deal in mortgages unless that person meets the requirements of the Act, Regulations, Rules, and Bylaws, and all levies, fees, premiums, fines, administrative penalties and other amounts that are payable under or pursuant to the Act, Regulations, Rules, Bylaws or under any predecessor enactments in respect of that person have been paid;*

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 **\$5,000** has been assessed against you for this contravention.

The circumstances of this matter indicate the following aggravating and mitigating factors were considered:

Aggravating Factors

- You have been a licensed mortgage broker since November, 2007, and ought to have been aware of licensing requirements.
- You assumed the responsibility of ensuring your associate's authorization was renewed on time.
- Your associate completed six mortgages during the unauthorized period for which she received remuneration.
- Unauthorized activity has an effect on public confidence, places consumers at risk and harms the integrity of the industry.
- There is a need to promote the deterrence of this behavior in the industry.

Mitigating Factors

- You have no prior history of discipline.
- You have accepted responsibility for the conduct.
- Your associate ceased activities as a mortgage associate when she became aware she was unauthorized.

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 **\$5,000** 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 Carla Sasley, Investigator, at RECA.

DATED this 9th day of January, 2012.

REAL ESTATE COUNCIL OF ALBERTA

Per: *Charles Stevenson*, for
Bob Myroniuk
Executive Director