

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 000454
Process: A Hearing under Part 3 of the *Real Estate Act*
Industry Member: Naveed Ul Haq Shah
Authorization: Real Estate Associate
Registration: Currently registered with Urban Real Estate Services
Ltd. O/A Urban-Realty.ca
Document: CONSENT AGREEMENT

1. The Executive Director of the Real Estate Council of Alberta has completed an investigation into the conduct of Naveed Shah.
2. The Executive Director and Naveed Shah agree to resolve conduct proceedings against Naveed Shah by the terms of this agreement.

Agreed Facts

3. Naveed Shah and the Executive Director agree to the following facts:
 - a. M.I. immigrated to Canada from Pakistan in May 2006. He became friends with Naveed Shah ("**Shah**"), who worked as a taxi driver and was also a real estate associate registered with Calgary Independent Realty Ltd ("**CIR Realty**") at the time. Shah suggested that M.I. get a job driving a taxi as well, which he did.
 - b. In or around August and September 2007, Shah began showing properties to K.A.; a family friend of Shah's who immigrated to Canada from Pakistan approximately one year earlier.

- c. In or around November 2007, Shah told M.I. that he was selling his property at 36 Martinview Cres Calgary, AB (the "**Subject Property**") to K.A. Shah told M.I. that K.A. did not have good credit and asked M.I. to co-sign the mortgage for K.A. M.I. told Shah that he did not know K.A. and so did not want to co-sign for him.
- d. On November 13, 2007, Shah drafted a Purchase Contract for the Subject Property (the "**November 13 Purchase Contract**"). The seller was Naveed Shah and the buyer was listed as "K.A. and or Nominee". The purchase price was \$388,000 with an initial deposit of \$5,000. The closing date was December 28, 2007 and there was a financing condition with a condition date of November 30, 2007. Under additional terms it stated "Buyer is aware that basement suite with two bedroom is illegal". W. Law office was listed as lawyer for both the buyer and seller. It was signed by Shah and K.A. and there were no witnesses indicated.
- e. Shah did not disclose in writing that he was an industry member authorized under the Real Estate Act or which brokerage he was registered with. He did not obtain written and informed consent from K.A. regarding any conflict of interest.
- f. Section 3.1 of the November 13 Purchase Contract is blank where it says "all deposits shall be delivered in trust to".
- g. Shah continued to aggressively pressure M.I. to co-sign for K.A. Shah called M.I. repeatedly and came to M.I.'s home with K.A. and Shah's brother-in-law to convince him to sign the paperwork.
- h. Shah told M.I. that if he signed the mortgage documents, his name would only be on title for 3 months and after that he would be removed

from the transaction and would have no obligations regarding the mortgage.

- i. After continued pressure from Shah and assurances that his name would be removed from the mortgage after 3 months, M.I. eventually agreed to co-sign the mortgage documents with K.A.
- j. Sometime prior to December 5, 2007, a Mortgage Application was created by M.M., mortgage broker with M.A., for K.A. and M.I. with respect to the Subject Property. It showed a purchase price of \$388,000 with a down payment of \$19,400. This application was sent to First National Financial LP "**First National**".
- k. On December 5, 2007, a Mortgage Approval was sent to M.M. from First National for K.A. and M.I. for a mortgage in the amount of \$368,600 plus insurance.
- l. On December 11, 2007, M.M. faxed documents to First National including the signed Mortgage Commitment, land title certificate, lawyer information for M.W., and a copy of a purchase contract for the Subject Property dated November 30, 2007 (the "**November 30 Purchase Contract**").
- m. The November 30 Purchase Contract that was provided to First National was different than the November 13 Purchase Contract initially signed by K.A. and Shah. The November 30 Purchase Contract listed the buyer as "K.A. and M.I.". The closing date was January 1, 2008. The financing condition date was December 15, 2007 and there was no disclosure of any illegal basement suite. It is indicated that final acceptance was signed November 30, 2007 by K.A. and M.I. There are also two witnesses listed on the contract, Z.I. (Shah's brother- in -law)

and K.S. Section 3.1 states that all deposits shall be delivered in trust to "Naveed Shah Lawyer".

- n. The November 30 Purchase Contract was drafted by Shah.
- o. No Notice of Waiver of Conditions was ever completed for the November 13 Purchase Contract or the November 30 Purchase Contract.
- p. Shah did not provide his brokerage with any documentation relating to the transaction.
- q. The transaction closed on December 24, 2007 and mortgage funds totaling \$367,895 were advanced to Shah's lawyer, M.W. \$225,363.84 was paid to TD Canada Trust to pay out Shah's mortgage on the Subject Property. The proceeds of \$140,923.18 were paid to Shah.
- r. Three months after the transaction closed, M.I. contacted Shah to request that he be released from the mortgage. Shah refused to discuss the matter.
- s. Eventually the Subject Property went into foreclosure.

Agreed Breaches

- 4. Naveed Shah's conduct is deserving of sanction for the following breach(es) based on the agreed facts:
 - a) Shah failed to provide competent service, contrary to section 41(b) of the Rules:

- No Notice of Waiver of Conditions was completed for the November 13 Purchase Contract or the November 30 Purchase Contract.
 - Shah drafted the November 13 Purchase Contract and failed to specify the terms of trust including who the deposit was supposed to be delivered in trust to.
 - Shah drafted the November 13 Purchase Contract and failed to have any witnesses to his and K.A.'s signatures sign the contract.
- b) Shah traded in real estate on his own behalf without disclosing in writing any interest that he had in the transaction, that he was an authorized industry member, the name of the brokerage he was authorized with, and any information within his knowledge that could materially affect the value of the real estate, contrary to section 62(1)(a) of the Rules:
- Shah entered into a purchase contract for his own property with K.A. without disclosing in writing that he was an industry member authorized under the Real Estate Act and what brokerage he was registered with.
- c) Shah provided services to a client or potential client in a trade or anticipated trade in which he had a conflict of interest without receiving the written and informed consent of the party, contrary to section 54(3) of the Rules:

- Shah failed to obtain the written and informed consent of K.A. with respect to the conflict of interest that existed in K.A. purchasing Shah's property.
- d) Shah failed to provide his broker all original documentation and copies of original documents related to a trade in real estate, contrary to section 53(c) of the Rules:
- Shah did not provide his brokerage with any documentation relating to the transaction.
- e) Shah engaged in conduct that 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:
- Shah aggressively pressured M.I. to co-sign for a complete stranger and convinced him to sign documentation to obtain a mortgage which benefitted Shah in the sale of his own property. Shah told M.I. that if he co-signed with K.A. on the mortgage, his name would only be on title for 3 months and then he would be removed and have no obligations.
 - Shah took advantage of two new immigrants to Canada so that he could profit.

Agreed Sanction

5. It is agreed that the following aggravating factors are relevant to the sanction:

- i. Shah’s conduct was intentional and carried out with disregard for potential harm or damage to K.A. and M.I., as well as the mortgage lender.
- ii. Shah’s conduct was for the benefit and profit of himself and to the financial detriment of K.A. and M.I.
- iii. K.A. and M.I. were vulnerable as they were new immigrants to Canada and trusted in Shah.
- iv. There was financial loss to the lender.

6. It is agreed that the following mitigating factors are relevant to the sanction:

- i. Naveed Shah has agreed to forgo the time and expense of a hearing, saving witnesses the inconvenience and stress of appearing, by entering into this Consent Agreement.
- ii. There is no disciplinary history for Shah.

7. It is agreed that the fines are as follows:

	Breach	Fine
a)	Rule 41(b)	\$2,000
b)	Rule 62(1)(a)	\$1,500
c)	Rule 54(3)	\$1,500
d)	Rule 53(c)	\$1,500
e)	Rule 42(g)	\$8,500
	Total Fines	\$15,000

8. Naveed Shah agrees to pay \$500.00 for costs of the investigation and proceedings.
9. Naveed Shah agrees to complete the following education requirement within 6 months of the approval of this Consent Agreement:

The following units from the Fundamentals of Real Estate course offered by RECA:

Unit 4: Consumer Relationships;
Unit 11: Mortgage Fraud Awareness; and
Unit 12: Ethics, Professionalism and Risk Reduction.
10. If the education requirement above is not available the Executive Director may substitute a similar course at his sole discretion.
11. Naveed Shah agrees to pay the cost of completing the education and will notify the Real Estate Council when they have completed the education requirement.
12. Naveed Shah acknowledges that they have been given an opportunity to seek the advice of legal counsel and voluntarily agrees to this Consent Agreement.
13. This Agreement is subject to approval by a Hearing Panel. If the Hearing Panel does not approve the agreement it is not binding on the Executive Director or Naveed Shah.
14. Naveed Shah is aware that a copy of this Consent Agreement will be placed on their licensing file with the Real Estate Council and may be considered as a factor on sanction in any future conduct proceedings.

15. Naveed Shah is aware that the Real Estate Council will publish the contents of this Consent Agreement.
16. Naveed Shah waives any right to a hearing or appeal or other proceeding under the *Real Estate Act* or review or other proceeding by a court in relation to the subject matter of this Consent Agreement if it is approved.
17. The Executive Director will take no further action under the *Real Estate Act* or in court concerning the conduct of Naveed Shah in relation to the subject matter of this Consent Agreement if it is approved.

Industry Member Signature

Agreed to at Calgary, Alberta, on September 8, 2014.

(location)

(date)

Signed in front of

)

)

M.G.

)

Witness signature

)

Naveed Shah

The Witness must complete the attached Affidavit of Execution.

Executive Director Signature

Agreed to at Calgary, Alberta, on Sept 15, 2014.

Charles Stevenson, for

Bob Myroniuk, Executive Director
of the Real Estate Council of Alberta

Hearing Panel Decision

This Consent Agreement is **Approved** _____X_____

This Consent Agreement is **not Approved** _____

Dated this 25th day of November, 2014, in Calgary, Alberta.

Per: *Angela Kolody*

Hearing Panel Chairperson Signature

Cc: Shannon Patterson, Legal Counsel
Sanjeet Singh Parmar, Broker Urban-Realty.ca

AFFIDAVIT OF EXECUTION

CANADA) I, M.G. 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 Naveed Shah 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 he/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 08 day of)
September, 2014.)
) M.G.
) (signature of witness)
)
)
)
B.D.)
A Commissioner for Oaths in and)
for the Province of Alberta)