

IN THE MATTER OF s. 39(1)(b) and s. 41 of the *Real Estate Act*, R.S.A. 2000, c.R.5

AND IN THE MATTER OF MOSES LING, AGENT,
REGISTERED WITH DEVONSHIRE REALTY INC. O/A REALTY
EXECUTIVES - DEVONSHIRE REALTY

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Moses Ling (hereinafter "Mr. Ling"), Agent, registered with Devonshire Realty Inc. o/a Realty Executives - Devonshire Realty, was deserving of sanction and/or whether he breached the requirements of the *Real Estate Act* (hereinafter "the *Act*") or the *Rules* prescribed pursuant thereto (hereinafter "the *Rules*") or the *Code of Conduct* prescribed pursuant thereto (hereinafter "the *Code of Conduct*").
2. The Executive Director and Mr. Ling agree to resolve all matters against Mr. Ling on the terms and conditions set out herein.

AGREED STATEMENT OF FACTS

3. That on or about December 2003, Mr. Ling approached H.K. [redacted] who was and still is the owner of Le Grande Café, an Edmonton coffee shop, and asked H.K. [redacted] if he was interested in selling this business.
4. That after this initial meeting, there were subsequent conversations back and forth between H.K. [redacted] and Mr. Ling with respect to the purchase of the assets of Le Grande Café. During these conversations, H.K. [redacted] was led to believe that Mr. Ling was acting on behalf of a third party, T.A. [redacted], and that T.A. [redacted] was the individual who was the interested purchaser.
5. That during these subsequent back and forth conversations, H.K. [redacted] may have been made aware that A.L. [redacted], Mr. Ling's wife, was going to be involved in the business after it was sold to T.A. [redacted]. However, H.K. [redacted] was not made aware that A.L. [redacted] was to have an interest in the business after the sale.
6. That by A.L. [redacted] having an interest in the business after its sale, Mr. Ling would subsequently have obtained an indirect interest by virtue of the fact that A.L. [redacted] was/is his wife.

7. That at no time did Mr. Ling disclose to H.K. [redacted] in writing that he was to have a direct or indirect interest in the purchase of the assets of Le Grande Café.
8. That on or about January 5, 2004, Mr. Ling drafted an Agreement of Purchase and Sale document for the purchase of the assets of Le Grande Café by Pradera Coffee Corporation. The purchaser was referenced on this Agreement as being, "T.A. [redacted], for a company to be incorporated ...". This was the only purchaser referenced in this Agreement.
9. That on or about January 6, 2004, Mrs. Ling signed this Agreement of Purchase and Sale on behalf of the purchaser. There was no indication on the Agreement that this signature was not T.A.'s [redacted].
10. That on or about January 7, 2004, Mr. Ling presented this Agreement of Purchase and Sale document to H.K. [redacted] for his signature. Mr. Ling made no indication to H.K. [redacted] at this time or at anytime thereafter that the signature that appeared for the purchaser was not T.A.'s [redacted].
11. That in March 2004, T.A. [redacted] withdrew from this purchase on the basis that he never signed the Agreement of Purchase and Sale.

CONCLUSION

12. By reason of the matters described herein, Mr. Ling's conduct is deserving of sanction in that he breached section 28(a) of the *Real Estate Act Rules* by:
 - (a) attempting to purchase the assets of Le Grande Café and failing to disclose in writing that he was to have a direct or indirect interest in the purchase;
13. By reason of the matters described herein, Mr. Ling's conduct is also deserving of sanction in that he breached section 4(d) of the *Code of Conduct* by:
 - (a) presenting the Agreement of Purchase and Sale to H.K. [redacted] with a signature on behalf of the purchaser that appeared to be T.A.'s [redacted] and not indicating to H.K. [redacted] that it was in fact A.L. [redacted] who signed this Agreement on behalf of T.A. [redacted].

SETTLEMENT TERMS

14. That in settlement of these issues, Mr. Ling will pay immediately to the Real Estate Council of Alberta a fine in the amount of \$4000.00, together with costs in the amount of \$500.00.

15. That Mr. Ling agrees that as a condition of his authorization to trade in real estate he will, within six (6) months of ratification of this Agreement by the Hearing Panel, successfully complete the "Ethical Practice in Real Estate" course offered by the Alberta Real Estate Association, or a similar course at the sole discretion of the Executive Director. The credits obtained in the course will not be applied to the mandatory education course credits required by RECA.
16. That Mr. Ling acknowledges that he has been given an opportunity to seek the advice of legal counsel and acknowledges that he is agreeing to the terms of settlement of his own free will.
17. That Mr. Ling is aware that a copy of the Consent Agreement will be placed on his file and may be reviewed and considered in any future disciplinary proceedings.
18. That Mr. Ling is aware the Real Estate Council of Alberta may publish the contents of this Consent Agreement.
19. That Mr. Ling hereby waives any rights he may have under the Act or otherwise to a review, hearing, appeal or other judicial proceeding involving the matter referred to herein.
20. That these settlement terms are intended to resolve all matters described herein and, subject to the approval of the Hearing Panel, the Executive Director will take no further action under the Act or before the Courts in this regard.

IN WITNESS WHEREOF the undersigned agree and accept the terms and conditions of this settlement this 4th day of October, 2006.

Signed and delivered
in the presence of

"R.H."

Witness to the signature
of Moses Ling

"Moses Ling"

MOSES LING

The Executive Director recommends to the Hearing Panel the proposed terms of settlement based on the Agreed Statement of Facts.

REAL ESTATE COUNCIL OF ALBERTA

Signature _____

Witness to the signature
of Bob Myroniuk

Per: _____

"K.B." *for*

Bob Myroniuk
Executive Director

Recommendation Approved ☒ _____

Recommendation Denied _____

DATED at the City of Calgary, in the Province of Alberta this 8th day of November 2006.

REAL ESTATE COUNCIL OF ALBERTA

Per: _____

"Bev Andre"

Hearing Panel Chairperson

AFFIDAVIT OF EXECUTION

CANADA) I, R.H. of
) (name of witness),
 PROVINCE OF ALBERTA) the City of Edmonton in the Province of Alberta,
)
 TO WIT:) MAKE OATH AND SAY:

1. THAT I was personally present and did see Moses Ling 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 in the City of Edmonton in the Province of Alberta and that I am the subscribing witness thereto.
3. THAT I know the said party and she is in my belief of the full age of eighteen years.

SWORN BEFORE ME in the City
 of Edmonton in the Province of
 "S.S." Alberta this 20th day of
October, 2006.

"R.H."
 (Signature of Witness)

"S.S."
 A Commissioner for Oaths in and
 for the Province of Alberta