

**REAL ESTATE COUNCIL OF ALBERTA**  
**NOTICE OF ADMINISTRATIVE PENALTIES**

**TO:** Joanna Coates, (at all material times) Broker for Lotus Pacific Management (Alberta) Inc.; currently registered as an Agent with:  
Gateway West Management Corporation  
2 - 625 14<sup>th</sup> Street NW  
Calgary, AB T2N 2A1

In accordance with sections 39 and 83 of the Real Estate Act, and with Part 4 of the Bylaws of the Real Estate Act, the Executive Director of the Real Estate Council of Alberta has determined that there is sufficient evidence of conduct deserving of sanction (re: Investigation File Nos. 943-00, 944-00 & 952-01) in regard to Joanna Coates, (then registered as Broker for Lotus Pacific Management (Alberta) Inc.; currently registered as an Agent with Gateway West Management Corporation) to assess Administrative Penalties. The evidence giving rise to the Executive Director's decision is as follows:

1. In 1998, Lotus Pacific Management Inc. was incorporated and licensed to trade in real estate in the Province of British Columbia. On April 16, 1999, Lotus Pacific Management Inc. incorporated 827131 Alberta Ltd., which changed its name to Lotus Pacific Management (Alberta) Inc. ("Lotus") on May 31, 1999. On October 19, 1999, Lotus was granted a licence by RECA to trade in real estate in the Province of Alberta.
2. After acquiring the property management portfolio of Argon Group Ltd. in 1999, Lotus began to manage the properties of owners such as: 1) E.P. - units #44 & #45 at 6440 4<sup>th</sup> Street NW, Calgary, AB ("Huntcliffe Gardens"); 2) A.T. - unit #64 at Huntcliffe Gardens; and 3) M.C. - unit #403 at 10883 Saskatchewan Drive, Edmonton, AB ("Strathcona House"). E.P., A.T. and M.C. each did not have written property management agreements with Lotus.
3. In mid-2000, a RECA audit of Lotus identified several deficiencies/irregularities, which were communicated to the broker for Lotus at the time, W.G. W.G. thereafter attempted to rectify these problems in cooperation with S.J., Director for both Lotus and the parent corporation in British Columbia.
4. On October 1, 2000, after W.G. resigned as broker for Lotus (due to his inability to resolve issues between RECA, Lotus and the parent corporation),

Joanna COATES agreed to be appointed as Interim Broker for Lotus, even though she was not broker-qualified at the time and did not have adequate knowledge of the duties and responsibilities of the position.

5. Once appointed as broker, COATES was not involved in the day-to-day operations of Lotus, as Lotus was actually being operated by S.J. (from her location in British Columbia). COATES believed that S.J. had appointed her as broker of Lotus in order to meet the requirements of the Real Estate Act.
6. In her December 21, 2000 letter to RECA, COATES explained that: 1) since she had agreed to become interim broker of Lotus, the unexpectedly large volume of her workload rendered it impossible for her to study the RECA broker's course; 2) S.J. had deceived her regarding the state of affairs at Lotus, and the reason for W.G. resignation as broker; 3) S.J. had been keeping her "in the dark" regarding management decisions at the brokerage; and 4) that she first became aware of the "scope and seriousness of the situation" when she received information from RECA earlier that month.
7. On December 11, 2000, Lotus notified RECA that they would be ceasing operations and leaving the Province of Alberta on December 15, 2000. Based on this notice, the fact that Lotus had yet to provide an explanation as to how their records would be brought up to date, and the real possibility that Lotus might attempt to move trust moneys from Alberta to British Columbia (as well as other concerns), RECA froze the trust accounts of Lotus on December 11, 12, 14 and 18, 2000. Unfortunately, this freeze was not able to completely prevent management fees from being deducted by Lotus (in advance) for December, 2000 on all accounts.
8. Further investigation revealed that S.J. had removed files from Lotus offices in Alberta and had transferred them to the Province of British Columbia. All accounting was performed from the B.C. office and statements were mailed out to clients directly from that province. Due to this fact, COATES was never provided with the opportunity to review, sign and date monthly reconciliations, etc. as part of her duties as broker.
9. On January 31, 2001, COATES' temporary broker's licence expired. There was no broker appointed to replace her.
10. In May, 2001, KPMG became a court-appointed trustee for Lotus. In summary, data provided by KPMG to RECA regarding Lotus accounts indicates actual trust shortages, resulting in payouts to owners in amounts which were significantly lower than what they were actually owed by Lotus.
11. Throughout the course of the RECA investigation into Lotus activities, similar complaints were heard from E.P., A.T. and M.C. : 1) Lotus managed their properties without a written management agreement or written terms of

trust; 2) Lotus was late in providing monthly statements to the owners; 3) Statements were sometimes incomplete, inaccurate, or (in some cases) not provided at all; 4) funds were improperly allocated or deposited; and 5) Lotus did not release funds or documents upon ceasing their management activities.

12. The RECA investigation also discovered that, between (at least) November, 1999 and February, 2001, Lotus was trading in real estate under the parent corporation's name, rather than the name which they were granted a brokerage licence by RECA. Residential Tenancy Agreements, Lease Renewal Agreements, inspection reports and various pieces of correspondence showed the parent corporation (rather than Lotus) as the agent of the landlord or property manager;
13. On September 9, 2003, (pursuant to the Real Estate Act) Administrative Penalties in the total amount of \$21,500.00 were issued against the brokerage, Lotus Pacific Management (Alberta) Inc., for (multiple) contraventions of:
  - a) Sections 25(1)(d) and 25(2) of the Real Estate Act; and
  - b) Sections 20(a), 20(b), 20(c), 38(1), 38(2)(a), 38(2)(b), 39, 42(4), 50(1)(a), 50(2) and 53 of the Real Estate Act Rules.

The Executive Director therefore believes that the conduct of Joanna Coates (then registered as Broker for Lotus Pacific Management (Alberta) Inc.; currently registered as an Agent with Gateway West Management Corporation) was in contravention of:

- a) sec. 21(1)(e) of the Real Estate Act Rules (\$1,000.00 Administrative Penalty); and
- b) sec. 21(1)(f) of the Real Estate Act Rules (\$1,000.00 Administrative Penalty);

and is conduct deserving of sanction. These provisions read as follows:

"21(1) A broker must

- (e) ensure the business of the brokerage is carried out competently and in accordance with the Act, the Bylaws, and these Rules;
- (f) ensure there is an adequate level of supervision for associate brokers, or agents, as the case may be, within the brokerage and employees who perform duties on behalf of the brokerage;"

In accordance with sections 39 and 83 of the Real Estate Act and Part 4 of the Bylaws of the Real Estate Act, Administrative Penalties in the total amount of **\$2,000.00** have been assessed against Joanna Coates for these contraventions. Payment of this total amount shall be accepted by the Executive Director as complete satisfaction of these

Administrative Penalties and no further proceedings under Part 6 of the Real Estate Act will be taken against Joanna Coates in respect of these contraventions.

This sum is payable to the Real Estate Council of Alberta within thirty (30) days of the date of issuance of this Notice. If Joanna Coates fails to pay the total amount set out in this notice, the Executive Director may commence legal action against Joanna Coates to recover the amount owing in respect of these Administrative Penalties as a debt due to the Real Estate Council of Alberta.

If you dispute this Notice of Administrative Penalty, in accordance with s. 35 of the Bylaws of the Real Estate 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 Kenneth Andrews, Case Officer at the Real Estate Council of Alberta.

DATED this 18<sup>th</sup> day of November, 2003.

**REAL ESTATE COUNCIL OF ALBERTA**

Per: "Bob Myroniuk"  
Bob Myroniuk  
Executive Director

cc: D.M. (current Broker)