

**IN THE MATTER OF the *Real Estate Act*, R.S.A. 2000, c. R-5 (the "Act"),
and Part 4 Administrative Penalties of the Real Estate Council Bylaws (the "Bylaws")**

AND IN THE MATTER OF Yuin Kim

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta has conducted an investigation into whether the conduct of YUIN KIM is deserving of sanction and/or whether he breached the requirements of the Act and the Bylaws
2. The Executive Director and YUIN KIM agree to resolve all matters against YUIN KIM on the terms and conditions set out herein.

AGREED STATEMENT OF FACTS

3. At all relevant times:
 - a) Hemisphere on the Bow Inc. ("Hemisphere") was a body corporate duly incorporated under the laws of Alberta.
 - b) Hemisphere's sole shareholder and director was Yuin Kim, an individual who resides in Calgary, Alberta.
 - c) The business of Hemisphere included the development and sale of a condominium project known as Hemisphere on the Bow in North West Calgary ("Hemisphere"), which included a unit known as Unit #101 ("Unit #101").
 - d) Hemisphere's sales staff included Yuin Kim and J.M. who was an independent contractor. J.M. was supervised by, and reported to, Yuin Kim.
 - e) Neither Yuin Kim nor J.M. were "industry members" as that term is defined under the *Real Estate Act*, R.S.A. 2000, c. R-5.
 - f) Neither Hemisphere nor Yuin Kim were owners of Unit #101, nor did they otherwise have a substantial interest in Unit #101.
4. J.G. purchased Unit #101 from Hemisphere sometime in late 1999 or early 2000. J.G.'s father was going to reside in Unit #101, however, between the time that J.G. purchased Unit #101 and the date upon which his father was to move in to Unit #101, J.G.'s father's health deteriorated to the point where he could not take care of himself. As a result, J.G. decided to sell Unit #101.

5. At all relevant times, J.A. was an industry member who had been retained by J.G. to sell Unit #101.
6. On or about April 5, 2000, an Offer to Purchase Unit #101 was prepared by J.M. on behalf of a prospective purchaser, D.H. (the "Offer to Purchase").
7. On or about April 6 or 7, 2000, the Offer to Purchase was delivered to J.A. by Yui Kim. The Offer to Purchase was not accepted by J.G., but a counter offer was prepared by J.A. further to J.G.'s instructions, which counter offer was delivered by J.A. to Mr. Kim on or about April 7, 2000 (the "Counter Offer").

CONCLUSION

8. By reason of the matters described herein, Mr. Kim's conduct is deserving of sanction in that he assisted or offered to assist a person in disposing of, acquiring or entering into a transaction in real estate for consideration or other compensation without holding the appropriate authorization under the Act, contrary to s. 17 of the Act.

SETTLEMENT TERMS

9. Mr. Kim agrees to immediately pay to the Real Estate Council of Alberta the amount of \$2,000.00 inclusive of costs.
10. Mr. Kim agrees to withdraw his appeal of the Notice of Administrative Penalty in this matter previously issued by the Executive Director on or about July 25, 2002.
11. Mr Kim agrees to not hold himself out as a real estate broker, nor trade in real estate that is not exempt under s. 2 of the Act, until he holds the appropriate authorization for that purpose from the Real Estate Council of Alberta as required under the Act.
12. The Executive Director agrees to withdraw the Notice of Administrative Penalty previously issued as against Mr. Kim on or about July 25, 2002.
13. Mr. Kim acknowledges that he has been given an opportunity to seek the advice of legal

counsel, that he has obtained such counsel, and that he is agreeing to the terms of settlement of his own free will.

14. Mr. Kim 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.

15. The Real Estate Council of Alberta shall be entitled to publish a notation in the *Regulator* that this settlement has been reached and may disclose the settlement amount. No names or other particulars shall be published in the *Regulator*. It is agreed and understood that a copy of this Settlement Agreement and the provisions contained herein, including the names of the parties, will be placed on the Real Estate Council of Alberta's public record of decisions and agreements which is available upon request for review by the general public.

16. Mr. Kim 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.

17. These settlement terms are intended to resolve all matters described herein. If all terms and conditions are met as set out herein, then 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 18 day of November 2002.

Signed and delivered
in the presence of

"M.H."

Witness to the signature
of Bob Myroniuk

"Yuin Kim"

YUIN KIM

REAL ESTATE COUNCIL OF ALBERTA

Per: "Bob Myroniuk"

"S.C."

Witness to the signature
of Bob Myroniuk

Bob Myroniuk
Executive Director

AFFIDAVIT OF EXECUTION

CANADA

I, M.H. Of
(name of witness).

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 **YUIN KIM** 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 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 18 day of
November 2002.

"S.B."

A Commissioner for Oaths in
and for the Province of Alberta

"M.H."

(signature of witness)