

**IN THE MATTER OF The Real Estate Act, S.A. 2000, c. R- 4.5**

**AND IN THE MATTER OF Terry Banks, Broker, registered with The Real Estate Company Ltd. o/a The Real Estate Company**

**INTRODUCTION**

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Terry Banks, Broker registered with The Real Estate Company Ltd. o/a The Real Estate Company (hereafter "The Real Estate Company"), is deserving of sanction and/or whether he breached the requirements of the *Real Estate Act* (hereafter "the Act") or the Rules prescribed pursuant thereto (hereafter "the Rules") or the Code of Conduct prescribed pursuant thereto (hereafter "the Code of Conduct").
2. The Executive Director and Terry Banks agree to resolve all matters against Terry Banks on the terms and conditions set out herein.

**AGREED STATEMENT OF FACTS**

3. The Real Estate Company is a duly licensed brokerage in Alberta. Terry Banks (hereafter "Banks") first became authorized to trade in real estate in 1972. He has been registered to seven (7) brokerages since 1972 and has been registered as a Broker to The Real Estate Company since 1999.
4. On or around August 17, 1999, The Real Estate Company and Terry Banks signed the RECA ON-Line Electronic Filer Agreement (hereafter "On-Line Agreement"). When Banks signed the On-Line Agreement he agreed to the terms, which would authorize The Real Estate Company to electronically file its licensing applications including annual renewal forms with RECA.
5. The following terms make up part of the On-Line Agreement:

**Definitions:**

Original copy means the paper copy of a RECA form, printed and duly executed by the appropriate industry member before the User submits it electronically using RECA ON-LINE.

### **User's Overall Responsibility**

By signing this agreement, the User accepts overall responsibility for ensuring the Agency (hereafter "Brokerage") will fulfill the terms of this agreement, follow the procedures and guidelines established for users of RECA ON-LINE and comply with any applicable legislation.

### **Records**

The User will ensure that all RECA forms are properly completed, printed and signed by the appropriate industry member before submitting the forms electronically using RECA ON-LINE. When the form includes an Affidavit or Statutory Declaration, the User will ensure that a qualified Commissioner for Oaths is present to administer the appropriate oath or declaration.

6. On or around February 2002 RECA Audit department completed a random examination of the books and records of the Real Estate Company. In a letter to Banks dated February 28, 2002, the RECA auditor stated that it did not appear that the broker had signed any of the Agent's 2001/2002 renewal forms yet they had been processed using RECA On-Line.
7. In a letter to RECA dated March 25, 2002 Banks stated, "I hereby admit, as the broker of The Real Estate Company, that I failed to sign 48 of the Agent/Associate Broker 2000–2001 renewal forms, that two of these forms were not signed or dated by the Agent/Associate Broker in question."
8. In the same letter to RECA dated March 25, 2002 Banks stated, "I hereby admit, as the broker of The Real Estate Company, that I failed to sign 90 of the Agent/Associate Broker 2001–2002 renewal forms, that two (2) of the Agent Forms were not dated by the Agent when signed and that in one case the incorrect form was used and this error was missed."
9. Banks stated he does all the RECA On-Line processing himself and does not delegate this task.

### **CONCLUSION**

10. By reason of the matters described herein, Terry Banks conduct is deserving of sanction in that he:
  - (a) Banks, as broker, failed to sign a total of 138 Agent/Associate Broker renewal forms for the period 2000-2001 and 2001-2002. He did not ensure that all RECA forms were properly completed, and signed by the appropriate industry member before submitting the forms electronically using RECA On-Line in breach of Rule s.17 (1).

- (b) Banks signed an On-Line Agreement accepting overall responsibility for ensuring that the Brokerage would fulfill the terms of the agreement, follow the procedures and guidelines established for users of RECA On-Line and comply with any applicable legislation. Banks, as broker, failed to sign Agent/Associated broker renewal forms, therefore he did not ensure proper management and control of documents related to licensing, registration and related regulatory requirements in breach of Rule s.21 (1)(h).

### **SETTLEMENT TERMS**

11. In settlement of these issues, Terry Banks will pay immediately to the Real Estate Council of Alberta a fine in the amount of \$1000.00, together with costs in the amount of \$250.00.
12. Mr. Banks RECA On-Line licensing privileges will be suspended for six (6) months. Prior to regaining access to the RECA On-Line system, Mr. Banks will successfully complete the RECA On-Line training seminar provided by the RECA Licensing department.
13. Mr. Banks 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.
14. Mr. Banks 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. Mr. Banks is aware the Real Estate Council of Alberta may publish the contents of this Consent Agreement.
16. Mr. Banks 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 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 27<sup>th</sup> day of September, 2002.

Signed and delivered  
in the presence of

"A.C."

Witness to the signature  
of Terry Banks

)  
)  
)  
)  
)  
)

"Terry Banks"

Terry Banks

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


"C.O."

Witness to the signature  
of Bob Myroniuk

Per: "Bob Myroniuk"

Bob Myroniuk  
Executive Director

Recommendation Approved  
Recommendation Denied

  
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DATED at the City of Calgary, in the Province of Alberta this 17 day  
of October, 2002.

#### Real Estate Council of Alberta

Per: "John Fraser"

Hearing Panel Chairperson

## AFFIDAVIT OF EXECUTION

CANADA	)	I, <u>A.C.</u> 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 **Terry Banks** 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 27 day of  
September, 2002.

"A.C."

(signature of witness)

"I.M."

A Commissioner for Oaths in and  
 for the Province of Alberta