

IN THE MATTER OF The Real Estate Act, R.S.A. 2000, c. R-5

**AND IN THE MATTER OF Jacqueline Brown and Wayne Brown,
Agents, (salespersons), registered with 419287 Alberta Ltd. o/a
Re/Max West Real Estate and previously registered with Seller Direct
Real Estate Inc. o/a Seller Direct**

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Jacqueline Brown and Wayne Brown, agents, registered with 419287 Alberta Ltd. o/a Re/Max West Real ("Re/Max West") is deserving of sanction and/or whether they 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 Jacqueline and Wayne Brown agree to resolve all matters against Jacqueline and Wayne Brown on the terms and conditions set out herein.

AGREED STATEMENT OF FACTS

3. Jacqueline and Wayne Brown have been registered industry members since September 1997. On July 5, 1999, both Jacqueline and Wayne Brown were registered with Seller Direct Real Estate Inc. o/a Seller Direct ("Seller Direct"). On Friday April 7, 2000 both Jacqueline and Wayne Brown completed "Status Change Forms" to leave Seller Direct and transfer to 419287 Alberta Ltd. o/a Re/Max West Real Estate ("Re/Max West"). The forms were completed in the afternoon of Friday April 7, 2000, and were not sent to the Real Estate Council of Alberta ("RECA") until Monday April 10, 2000. Both Jacqueline and Wayne Brown knew the forms were not delivered to RECA on Friday April 7, 2000.
4. On Saturday April 8, 2000, Re/Max West listed a property located in Bowness. The listing agents were Jacqueline and Wayne Brown. Wayne Brown was the primary agent on the listing. Wayne Brown held an open house on Saturday April 8, 2000. As Wayne Brown did not have a Re/Max West open house sign, he used a Seller Direct open house sign. The Manager of Seller Direct saw the open house sign and confronted Wayne Brown. Wayne Brown shut down the open house.
5. On Monday April 10, 2000, the Broker of Re/Max West imputed the MLS information on the Bowness property. On the same day Jacqueline and Wayne Brown advise Seller Direct, in writing, they are terminating their association with Seller Direct. RECA processed the termination from Seller Direct and the application forms for the Browns to register with Re/Max West.

6. On April 10, 2000, the same day the Browns terminated their licenses with Seller Direct, Seller Direct had four listings (the "Listings") that Jacqueline and Wayne Brown were the agents. On April 10, 2000, Jacqueline and Wayne Brown had the four Listing clients of Seller Direct sign an "Addendum to Listing Contract" (the "Addendums"). The Addendums were to transfer the Listings from Seller Direct to Re/Max West. The Addendums were signed by Jacqueline and Wayne Brown and the owners of the Listings on April 10, 2000. On the same day the Addendums were sent to Seller Direct, for signature of the Broker of Seller Direct.
7. On April 11, 2000, and prior to the Addendums being signed by the Broker of Seller Direct, one of the Listings sold. Wayne Brown witnessed the seller's signature on the real estate purchase contract. On the real estate purchase contract it states: Jacquie & Wayne Brown as the agents registered to the brokerage and the Brokerage name of Seller Direct Real Estate. All deposits were paid to Seller Direct.
8. On April 12, 2000, and prior to the Addendums being signed by the Broker of Seller Direct, another of the Listings sold. Wayne Brown witnessed the seller's signature on the real estate purchase contract. On the real estate purchase contract it states: Seller's sales Representative Jacquie Brown and Seller's Agent as Seller Direct.
9. Both Listings set out in paragraphs 7 and 8 above had a "Re/Max Sold" sign placed on the property. Jacqueline and Wayne Brown have stated the reason a Re/Max Sold sign was placed on the two properties was because they had already returned their Seller Direct signs.
10. By reason of the matters described herein, Jacqueline and Wayne Brown's conduct is deserving of sanction in that they:
 - (a) Traded in real estate in a name other than the name that appeared on their license, by acting as the agent for Re/Max West when listing the Bowness property, when they were registered with Seller Direct; in breach of Rule 23 (b) of the Rules made pursuant to the Act.
 - (b) Made a representation that was reckless or intentional when they caused a "Re/Max Sold" sign to be placed on two of Seller Direct Listings in breach of section 4 (a) of the Code of conduct made pursuant to the Act.
 - (c) Traded in real estate in a name other than the name that appeared on their license, by acting as the agent, indicated on of the real estate purchase contracts, for Seller Direct when they were registered with Re/Max West, in breach of Rule 23 (b) of the Rules made pursuant to the Act.

SETTLEMENT TERMS

11. In settlement of these issues, Jacqueline and Wayne Brown, jointly and severally, will pay to the Real Estate Council of Alberta a fine in the amount of \$3000.00, together with costs in the amount of \$500.00. The payment schedule is attached hereto as schedule "A" and forms part of this agreement.
12. Both Jacqueline and Wayne Brown agree that as a condition to their authorization to trade in real estate, they will prior to March 31, 2003, successfully complete the Ethical Practice in Real Estate course offered by the Alberta Real Estate Association. The course will not be applied to Jacqueline or Wayne Brown's continuing educational credits. Jacqueline and Wayne Brown are responsible for sending RECA confirmation of successful completion of the course prior to March 31, 2003.
13. Jacqueline and Wayne Brown acknowledge that they have been given an opportunity to seek the advice of legal counsel and acknowledge that they are agreeing to the terms of settlement on their own free will.
14. Jacqueline and Wayne Brown are aware that a copy of the Consent Agreement will be placed on their file and may be reviewed and considered in any future disciplinary proceedings.
15. Jacqueline and Wayne Brown are aware the Real Estate Council of Alberta may publish the contents of this Consent Agreement.
16. Jacqueline and Wayne Brown hereby waives any rights they 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 29 day of October, 2002.

Signed and delivered
in the presence of

"R.T."

Witness to the signature
of Jacqueline Brown

)
)
)
)
)

"Jacqueline Brown"

Jacqueline Brown

Signed and delivered
in the presence of

"R.T."

Witness to the signature
of Wayne Brown

"Wayne Brown"

Wayne Brown

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

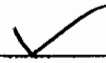
"J.C."

Witness to the signature
of Bob Myroniuk

Per: "Bob Myroniuk"

Bob Myroniuk
Executive Director

Recommendation Approved
Recommendation Denied



DATED at the City of Calgary, in the Province of Alberta this 6th day
of NOVEMBER, 2002.

Real Estate Council of Alberta

Per: "Lynn Patrick"

Hearing Panel Chairperson

AFFIDAVIT OF EXECUTION

CANADA) I, R.T. 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 Jacqueline Brown and Wayne Brown named in the annexed instrument, who are personally known to me to be the persons 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 parties and they are in my belief of the full age of eighteen years.

SWORN BEFORE ME at the City
 of Calgary, in the Province of
 Alberta this 29 day of
October, 2002.

"R.T."

(signature of witness)

"G.C."

A Commissioner for Oaths in and
 for the Province of Alberta

SCHEDULE "A"

October 29, 2002	\$1,000.00
December 1, 2002	\$500.00
January 1, 2003	\$500.00
February 1, 2003	\$500.00
March 1, 2003	\$500.00
April 1, 2003	\$500.00
Total paid	\$3,500.00