

REAL ESTATE COUNCIL OF ALBERTA

NOTICE OF ADMINISTRATIVE PENALTY

To: Deric Burton
4th Street Holdings Ltd.
Re/Max Real Estate (Central)
#206, 2411 4th Street NW
Calgary, AB T2M 2Z8

In accordance with s. 39 and s.83 (formerly s.82) of the Real Estate Act (hereinafter the "Act") and the Bylaws of the Act, the Executive Director of the Real Estate Council of Alberta has determined that there is sufficient evidence of conduct deserving of sanction in regard to Deric Burton, Agent to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows:

On October 04, 2000 Mr. Burton advised an Investigator of the Real Estate Council of Alberta (hereinafter "RECA") that he provided promotional material, in the form of a flyer by direct mail marketing, handed out business cards and note pads, which indicated he would pay for a professional moving company if any person sold property through him.

In a letter to RECA dated August 25, 2000 and January 31, 2002, Mr. Burton provided a copy of his promotional material, which included two (2) flyers, two (2) notepads and a business card. These promotional materials offer the following incentive:

"When you sell your home through us we will pay for a professional moving company, Trilogic Relocation Systems Inc. Agent for United Canada's #1 Mover, and three of their best men to take away the worry and stress of moving your household possessions. This may be worth well over \$1,400!! But don't worry we pick up the tab no matter what it costs."

During the October 04, 2000 interview Mr. Burton indicated to the Investigator that the "we" in the promotional materials are referring to Deric Burton only, and that this was not a brokerage based incentive.

This incentive was only available when a person listed their property through Mr. Burton and was not offered to all clients of Re/Max Real Estate (Central). Deric Burton handled all the details of the offered incentive, including paying the moving company. Mr. Burton by way of a letter, provided the moving company's statement of account dated March 07, 2002 which confirmed Deric Burton or Derex Development, in which Deric Burton is the sole Director and shareholder, paid for approximately 14 vendor client moves from July 1999 to December 2001.

By way of a letter to Deric Burton regarding advertising incentives dated March 11, 2002, F.M. , broker of Re/Max Real Estate (Central) advised Mr. Burton that his moving incentive was not in accordance with the brokerage policy. F.M. stated:

“As previously announced in this office, RE/MAX Real Estate (Central), does not offer incentives to the public and although you were fined for offering moving incentives and you successfully appealed the fine, your advertising of this or any other incentive must cease immediately.

The legislation has been changed since your successful appeal and only the brokerage may offer incentives to the public.”

In a letter to RECA regarding Deric Burton dated April 23, 2002, P.M. , an Agent and owner of Re/Max Real Estate (Central) outlined the objections of the brokerage with regard to Mr. Burton's moving incentives by stating:

“It is Re/Max Centrals opinion, based on its interpretation of the act, that Deric offered incentives to the public.

Re/Max Central has indicated to its realtors that it did not as a brokerage and would not offer incentive to do business. Because of this policy none of its realtor's could offer incentives.

Deric did so without our permission and consent as he has acknowledged.”

An agent must not directly or indirectly advertise, communicate or offer to any person an incentive except an incentive that is provided by and on behalf of the brokerage with which they are registered. The Executive Director believes Deric Burton's conduct is in contravention of Rule 24(1)(d) of the Real Estate Act and is conduct deserving of sanction.

In accordance with s. 39 and 83 (formerly s.82) of the Real Estate Act and Part 4 of the Bylaws of the Real Estate Act, an Administrative Penalty in the amount of **\$1500.00** has been assessed against Deric Burton, for this contravention. Payment of this Administrative Penalty shall be accepted by the Executive Director as complete satisfaction of the amount of the penalty and no further proceedings under Part 6 of the Real Estate Act will be taken against you in respect of the contravention.

This sum is payable to the Real Estate Council of Alberta at the above noted address within thirty (30) days of the date of issuance of this Notice of Administrative Penalty. If you fail to pay the amount set out in this notice, the Executive Director may commence legal action against you to recover the amount owing in respect of the Administrative Penalty 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, 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 Monica Burman, Case Officer at the Real Estate Council of Alberta.

DATED this 8th day of October 2002.

REAL ESTATE COUNCIL OF ALBERTA

Per: "Bob Myroniuk"
Bob Myroniuk
Executive Director