

1

**AGREED STATEMENT OF FACTS BETWEEN ZOBIDA GROENEVELD AND THE
EXECUTIVE DIRECTOR OF THE REAL ESTATE COUNCIL OF ALBERTA**

AND

**IN THE MATTER OF Section 39 1) (b), 41 and 46 of the Real Estate Act,
R.S.A. 2000, c. R- 5 IN A HEARING** regarding the Conduct of Zobida
Groeneveld then registered as a agent (salesperson) with Westhills Realty Ltd.
o/a Sutton Group Westhills Realty ("Westhills")

**AGREED STATEMENT OF FACTS AND CONDUCT DESERVING OF
SANCTION**

1. Zobida Groeneveld ("Groeneveld") became registered as an agent (salesperson) on August 18, 1997. At that time Groeneveld was registered with Royal LePage Real Estate Services Ltd. In April of 1998 Groeneveld changed brokerages and joined Sutton Group Westhills ("Westhills").
2. In May 1999, Groeneveld met M.S. and S.S. ("S.") who were selling a property located at 4608 48 Street N.W. Calgary. ("48 Street") S. had an equitable interest in 48 Street as they had purchased the property in March 1999. Between March 1999 and before possession and completion of the S. purchase of 48 Street, S. found another property that they wished to purchase. S. made an offer to purchase for the new property. The offer was subject to the condition that S. sell 48 Street. S. made arrangements with the seller of 48 Street, R. to jointly market 48 Street in an effort to sell 48 Street prior to the completion of the S.'s purchase contract. R. agree to allow S. to market and show 48 Street. If S. could sell the property, any monies over and above the purchase price the S. paid for 48 Street would be divided between the R. and S. S. consulted with their lawyer and he suggested that if 48 Street sold then he would do a skip transfer from R. to the new purchaser at the request of S. The cost of a skip transfer would be in the range of \$350.00.
3. S. started to market 48 Street in an effort to sell the property prior to the completion date. Groeneveld met S. when she showed 48 Street to potential purchasers. Groeneveld advised S. that she could find a buyer for 48 Street. On May 18, 1999, S. entered into an exclusive listing with Westhills. The listing contract indicated that there was a \$150,000.00 mortgage on the property, when in fact at the time of the listing S. did not have a mortgage on the property. In fact, the property was not in S. names as the R. to S. transaction had not closed. Groeneveld did not confirm any of the mortgage details. Groeneveld placed an advertisement in the Calgary Herald for 48 Street. The advertisement stated "FIRE SALE- Has to be sold this week!" Groeneveld showed 48 Street to A., who made an offer to purchase for 48 Street The purchase price was \$200,000.00.

4. Groeneveld advised S. that A. could not purchase the property unless he could assume the mortgage. This statement was not correct in that A. had previously qualified for a mortgage; however, the mortgage was not enough to purchase 48 Street. As such, A. would have to borrow funds from another source. During the time that A. was attempting to put his financing in order, Groeneveld suggested he assume the S. mortgage. At the time S. did not have a mortgage on 48 Street. To assume the S. mortgage would mean that S. had to put the mortgage on 48 Street. A. stated the reason he assumed the S. mortgage was that Groeneveld advised him that S. would save the pay-out penalty, and the interest rate on the S. mortgage was a lower percentage rate than the mortgage A. had qualified for. Groeneveld advised A. that S. was selling 48 Street as S. had purchased another property. Additionally, Groeneveld advised A. that S. would accept an offer of \$200,000.00 for 48 Street. Due to the representations made by Groeneveld, S. completed the transaction between S. and R. and drew down the mortgage. Thereafter, the property was transferred to A. . In effect two transfers took place: the transfer from to S. and then S. to A. . Because of the structure of the transaction, S. incurred additional legal fees and disbursements above what they expected to pay for the skip transfer.
5. Ms. Groeneveld drafted two real estate purchase contracts for the sale of 48 Street:
- (a) First, Groeneveld drafted a real estate purchase contract from R. to A. . The contract was dated May 15, 1999. Groeneveld participated in the creation of a false and misleading document by signing in the witness section of the contract indicating that she had witnessed A. signature, when R. had not yet signed the contract. A. later signed the contract. R. did not sign this contract. Groeneveld could not explain why she drafted a real estate purchase contract between R. and A. .
 - (b) A second real estate purchase contract was drafted by Groeneveld from S. to A. on May 18, 1999. Both A. and S. signed the second real estate purchase contract.
6. The possession and completion date on the A. purchase from S. was set for June 1, 1999. Later, A. contacted Groeneveld and advised that he may need one or two extra days to close the transaction. Groeneveld contacted S. and advised S. that A. may need more time to close the contract. These discussions lead to a misunderstanding on the possession date as Groeneveld believed the possession date was to remain the same and S. believed the possession date had changed to June 15, 1999. S. contacted R. to inquire if they would agree to close the R. contract to S. on June 14, 1999. A. agreed to change the possession date June 14, 1999.
7. On May 31, 1999, A.'s lawyer wrote to S.'s lawyer advising the closing date was set for June 1, 1999, and possession was required on that date. Due to

the confusion of the possession date and that the R. had not completely vacated the property, possession could not be granted until June 2, 1999. As a settlement for the late possession, S. agreed to pay A. \$1,000.00 in damages.

8. During the confusion of the possession date, S. called Groeneveld to inquire about the possession date and Groeneveld would not return S.'s calls. Groeneveld advised the Investigator that S. had become verbally abusive and this was the reason she did not return S. phone calls.
9. After completion of the sale from S. to A., S. wrote a letter of complaint to the Calgary Real Estate Board and to the Real Estate Council.
10. An Inquiry Hearing was held at the Calgary Real Estate Board and as a result of the Inquiry Hearing, Groeneveld was fined \$5,000.00. Additionally, the Inquiry Panel ordered Groeneveld to take two courses, **Agency Relationships** and **Ethical Practice in Real Estate**. Groeneveld appealed the Inquiry Hearing Panel's decision. On appeal the Appeal Panel confirmed the Inquiry Hearing Panel's decision and imposed further sanction on Groeneveld. The appeal panel suspended Groeneveld from the Calgary Real Estate Board for a period of 6 months and required Groeneveld to take the entire **Real Estate Agent's Program**.
11. Groeneveld has taken the Real Estate Agent's Program but has not yet fulfilled the balance of the requirements under the Calgary Real Estate Board's order.
12. In May 2000, Zobia Groeneveld was a respondent in another Calgary Real Estate Board hearing. The Inquiry Hearing held that Groeneveld had breached a number of CREB'S Business standards. Groeneveld was fined \$3,000.00 and had to complete the Agency portion of the Real estate 1000 course and day one of the CREB Orientation Course. Groeneveld did not advise the Executive Director in writing when she was sanctioned by the Calgary Real Estate Board.
13. In March 1998, while Zobia Groeneveld was employed as a nurse she was disciplined under the *Nursing Profession Act*. Groeneveld entered into an agreement between herself and AARN wherein she agreed her conduct, while she was acting as a nurse, was professional misconduct. Groeneveld received a reprimand from the Professional Conduct Committee. On a 1998-1999 real estate salesperson application, including an attached affidavit, Groeneveld stated she understood all the questions on the application. Notwithstanding that Groeneveld had been disciplined under the *Nursing Profession Act*, Groeneveld answered the following question number 2, on her 1998-1999 application, in the negative:

(2) In the past FIVE years, have you been disciplined by any local real estate board, real estate or mortgage broker association, or any professional or occupational society?

14. On a 1999-2000 real estate salesperson application, including an attached affidavit, Groeneveld stated she understood all the questions on the application. Notwithstanding Groeneveld had been disciplined under the *Nursing Profession Act* in 1998, Groeneveld answered the following question number 3 in the negative:

(3) In the past FIVE years, have you been disciplined by any real estate board, real estate or mortgage broker association, or any professional or occupational society?

15. Groeneveld agrees that her conduct is conduct deserving of sanction in that:

(a) Groeneveld failed to render competent service to her clients, S. and A. , in breach of Section 6 of the Code of Conduct made pursuant to the Real Estate Act, by:

- (i) Not understanding the concept of a skip transfer. Groeneveld believed that S. had to complete the transfer from R. to S. so A. could purchase 48 Street.
- (ii) Not understanding the concept and requirements under a dual agency as she advised A. of S. motivation for selling 48 Street and further advised A. that S. would accept a \$200,000.00 offer for 48 Street.
- (iii) Drafting a real estate purchase contract between R. and A. when R. was not selling 48 Street to A.
- (iv) By failing to decline to act on behalf of S. when Groeneveld did not understand the concept of a skip transfer in breach of 6 (b) of the Code.

(b) Groeneveld failed to act in the best interest of her clients, in breach of section 2 of the Code of Conduct made pursuant to the Real Estate Act, when she:

- (i) Failed to ensure that there was a clear agreement and understanding of the possession date.
- (ii) Advised S. that A. had to assume a mortgage to purchase 48 Street.

(c) Groeneveld carried on conduct and made representations that was reckless in breach of Section 4 (a) of the Code of Conduct, when she:

- (i) Indicated on the exclusive listing contract that S. had a \$150,000 mortgage on 48 Street when in fact S. did not have a mortgage on 48 Street.
- (ii) Advised A. that S. owned the property when in fact R. was the legal owner of 48 Street and S. had an interest in the property.

(d) Groeneveld participated in the creation of a contract that Groeneveld knew was false and misleading in that she signed as a witness to the section of the contract that required the buyer's signature when the buyer had not signed the contract.

- (e) Groeneveld revealed S.'s confidential information, in breach of section 2 (d) of the Code of Conduct made pursuant to the Real Estate Act when she:
- (i) Told A. that the S. would accept a \$200,000.00 offer;
 - (ii) She advised A. that S. had purchased another property and this was the reason they were selling 48 Street.
- (f) Groeneveld did not advise the Executive Director in writing when she was disciplined by the Calgary Real Estate Board in breach of section 15 (3) (a) of the Rules made pursuant to the *Real Estate Act*.
- (g) Groeneveld did not answer the question on her 1998-1999 and 1999-2000 real estate salesperson registration correctly as she was disciplined under the *Nurses Professions Act* in March 1998. The answer to the question on Groeneveld's application should have been YES in reply to the question had Groeneveld ever been disciplined under any professional or occupational society, as Groeneveld had received a reprimand by the AARN. As such, Groeneveld swore an affidavit that was incorrect.

IN WITNESS WHEREOF the undersigned agree and accept that this Agreed Statement of Facts will be presented to a Hearing Panel, signed this 4 day of September, 2002.

Signed and delivered
in the presence of

"S.C."
Witness to the signature
of Zobida Groeneveld

)
)
)
)
)
)
)

"Zobida Groeneveld"
Zobida Groeneveld

Real Estate Council of Alberta

"S.C."
Witness to the signature
of Bob Myroniuk

Per: "Bob Myroniuk"
Bob Myroniuk

AFFIDAVIT OF EXECUTION

CANADA) I, S.C. of
) (name of witness),
PROVINCE OF ALBERTA) the City of Calgary the Province of Alberta
)
TO WIT:) MAKE OATH AND SAY:

THAT I was personally present and did see Zobida Groeneveld 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.

THAT the same was executed at the City of Calgary, in the Province of Alberta, and that I am the subscribing witness thereto.

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 4 day of)
September, 2002.)

"S.C."
(signature of witness)

"J.C.")
A Commissioner for Oaths in and for)
the Province of Alberta)

HEARING PANEL DECISION

AGREED STATEMENT OF FACTS BETWEEN ZOBIDA GROENEVELD AND THE EXECUTIVE DIRECTOR OF THE REAL ESTATE COUNCIL OF ALBERTA

And

IN THE MATTER OF Section 39 1) (b), 41 and 46 of the Real Estate Act,
R.S.A. 2000, c.R – 5 IN A HEARING regarding the Conduct of Zobida Groeneveld
then registered as an agent (salesperson) with Westhills Realty Ltd.
(o/a Sutton Group Westhills Realty ("Westhills"))

AGREED STATEMENT OF FACTS AND CONDUCT DESERVING OF SANCTION

A Hearing was held at the offices of the Real Estate Council of Alberta located at Suite 340, 2424 – 4th Street SW, Calgary, Alberta, T2S 2T4 on September 23rd, 2002 at 9:30 am to consider the sanctions in reference to an AGREED STATEMENT OF FACTS AND CONDUCT DESERVING OF SANCTION.

The signed AGREED STATEMENT OF FACTS AND CONDUCT DESERVING OF SANCTION are attached and form the basis for this decision.

The Hearing Panel Members are as follows:

Graham L. Downey, Chair
Kevan Ladner
Glen Chapman

Jocelyne J. Caldwell appeared on behalf of the Executive Director of the Real Estate Council of Alberta.

Zobida Groeneveld appeared on her own behalf.

Susan Cavanagh acted as Hearing Secretary.

Neither Jocelyne J. Caldwell or Zobida Groeneveld objected to any members of the Hearing Panel.

Ms. Caldwell, on behalf of the Executive Director, outlined the AGREED STATEMENT OF FACTS AND CONDUCT DESERVING OF SANCTION and presented the sanctions requested. Several other Hearing Panel decisions were referred in the submission.

Ms. Groeneveld admitted that she had made a number of errors, mainly through ignorance and being incompetent, but that it was not done with malice, greed, or for any personal gain.

Both Ms. Caldwell and Ms. Groeneveld indicated they had ample opportunity to present their submissions and had nothing additional to add.

Based on the AGREED STATEMENT OF FACTS AND CONDUCT DESERVING OF SANCTION and the submissions by Ms. Caldwell and Ms. Groeneveld, the decision of the Hearing Panel is as follows:

- 1) The suspension of Ms. Groeneveld of the authority to trade in Real Estate issued in May, 2002 will remain in effect to October 31st, 2002.
- 2) A fine of \$3,000.
- 3) No additional Hearing Costs will be levied due to the co-operation of Ms. Groeneveld.
- 4) Should Ms. Groeneveld decide to become authorized to trade in Real Estate, a system of regular reporting to the broker is to be established at the sole discretion of the Executive Director.
- 5) Ms. Groeneveld is required to complete two (2) educational courses; Agency Relationships and Ethical Practice in Real Estate within six (6) months of being authorized to trade in real estate. If these courses are not available, other courses will be substituted or the time extended at the direction of the Executive Director.
- 6) Any financial arrangements in reference to the fine is at the sole discretion of the Executive Director.

Dated this 26th day of September, 2002

"Graham L. Downey"

Graham L. Downey, Chair

"Kevan Ladner"

Kevan Ladner

"Glen Chapman"

Glen Chapman