

REAL ESTATE COUNCIL OF ALBERTA  
NOTICE OF ADMINISTRATIVE PENALTY

To: Discover Real Estate Ltd., Brokerage

And to: Graham Mayne, Broker

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 Discover Real Estate Ltd., brokerage and Graham Mayne, broker to assess an Administrative Penalty in the amount of \$1,000.00. The evidence giving rise to the Executive Director's decision is as follows:

On or about August 19, 2000 the vendors' listed their residential property in Okotoks for sale with Discover Real Estate Ltd. where S.K. was the responsible industry member. In or around August 19 to August 23, 2000 Graham Mayne employed S.K. as an agent to trade in real estate without having obtained the necessary authorization for him from the Real Estate Council of Alberta.

The Residential Real Estate Listing Contract 29413 dated August 19, 2000 (hereafter listing contract 29413) was a co-listing with Sather Real Estate Pro Brokers. Sather Real Estate Pro Brokers did not sign the listing contract 29413. The commission split between the co-listing brokerages was not outlined on the listing contract 29413.

Section 2.2 of the August 19, 2000 listing contract 29413 read:

2.2 Is the Property currently listed for sale with another real estate brokerage?

S.K. prepared the August 19, 2000 listing contract 29413, on behalf of Discover Realty Ltd., and answered "No" to section 2.2 although the true answer to the question was "Yes". He knew or ought to have known a Residential Real Estate Listing Contract 37491 (hereafter "listing contract 37491") dated August 07, 2000 between the vendors and Heritage Realty Better Homes and Garden and Sather Real Estate Pro Brokers was still a valid contract. Discover Real Estate Ltd. and Graham Mayne knew or ought to have known that listing contract 37491 dated August 07, 2000 was a valid contract as Mr. Mayne stated that he did not intend to claim commissions from the client's if

Heritage Realty Better Homes and Garden claimed commissions from the sale of this property.

It was the responsibility of Graham Mayne, as the Broker of Discover Real Estate Ltd. to ensure and confirm that S.K. obtained a registration as a real estate agent with the Real estate Council of Alberta and that he meet the requirements of the Act, these Rules, and the Bylaws, and that all fees, premiums, fines, administrative penalties and other amounts that are payable under or pursuant to the Act, these Rules, or the Bylaws or any predecessor enactments in respect of that person have been paid prior to employing S.K. to trade in real estate as a real estate agent.

It was also the responsibility of Graham Mayne, as the Broker of Discover Real Estate Ltd. to ensure the business of the brokerage is carried out competently and in accordance with the Act, the Bylaws and these Rules.

The Executive Director believes this conduct is in contravention of Rules 20(f) and 21(1)(e) 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 \$1,000.00 has been assessed against Discover Real Estate Ltd., brokerage and Graham Mayne, broker 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 17<sup>th</sup> day of September 2002.

REAL ESTATE COUNCIL OF ALBERTA

Per: "Bob Myroniuk"

Bob Myroniuk

Executive Director