

THE REAL ESTATE COUNCIL OF ALBERTA

IN THE MATTER OF Subsection 39(1)(b) and 41 of the Real Estate Act, S.A.
1995, c. R- 4.5

AND IN THE MATTER OF a Hearing Regarding the Conduct of Marc Wolf
Registered as an agent (salesperson) with Trans/Act Real Estate Corporation and
formerly registered as an agent (salesperson) with Impact Real Estate Group Ltd.
o/a Residential One Impact Real Estate Group

NOTICE OF HEARING

To: Marc Wolf

And To: Trans/Act Real Estate Ltd.
51 Shawnee Cres. S.W.
Calgary, Alberta
T2Y 1W3

TAKE NOTICE that, at a hearing which has been scheduled before a Hearing Panel on *January 8 and 9, January 16 and 17, and February 21 and 22, 2002 at 9:00 a.m.* at the offices of the Real Estate Council of Alberta located at Suite 340 2424 4 Street SW Calgary, Alberta T2S 2T4, you will be required to answer the following allegations:

224 Deerpark Place SE Calgary

TRANSACTION #1/SALE FROM M.O. TO T.G.

- 1) On May 12, 1999, Marc Wolf ("Wolf") was the Buyer's Agent in an offer to purchase for 224 Deerpark Place SE Calgary. T.G. was listed as the purchaser. The particulars of the offer were that T.G. would pay cash in the amount of \$167,000.00. Wolf disclosed in paragraph 6.4 that the "Buyer is related to selling realtor." When title transferred, it was registered into the names of T.G., C.W. and Marc Wolf.

TRANSACTION #2/SALE WOLF/ T.G. / TO M.W.

- 2) After May 12, 1999 but before June 1, 1999, you, Wolf, entered into a lease agreement with an option to purchase for 224 Deerpark Place SE. The Tenant was M.W. The purchase price, had M.W. exercised his option, would have been \$191,599.00. Some time between June 1 and June 5 1999,

M.W. advised you that he was not going to proceed with the transaction and requested a return of his deposit. As no refund was forthcoming, M.W. reported you to the City of Calgary -Community and Social Services Development Department. You responded to M.W.'s complaint via letter to S.D. at the City. In your reply, dated July 28, 1999, you advised D.S. that on or about July 2, 1999, you attended 224 Deerpark Place SE in order to either "obtain the monies owing as per [your] contract with M.W. or failing that, [you] were going to post an Eviction (sic) notice." Further, you advised that "It was only because [you] physically went to Deer Park Place that evening of July 2, 1999 that [you] learned of [the] fact, that M.W. was vacating the property."

- 3) M.W. was not provided with a copy of the Lease/Option agreement.

TRANSACTION #3/WOLF SALE TO S.B. AND N.T.

- 4) On June 16th 1999, Wolf listed 224 Deer Park Place on the MLS listing service for the list price of \$194,900.00. The seller is listed as undisclosed.
- 5) On June 16th, 1999, you, Wolf, acted as a dual agent for S.B. and N.T. as purchaser and, your wife, C.W., as seller of 224 Deer Park Place SE (the "S.B. offer"). The S.B. offer disclosure states that the "Buyer aware seller related to Realtor." Wolf, his wife and T.G. were the registered owners of the property on June 16, 1999. There is only one signature on the real estate purchase contract in the capacity of seller.
- 6) The MLS input sheet for 224 Deer Park Place indicated a list date of June 16th 1999, a sale date of August 5, 1999, an adjustment date of August 15, 1999, and a total of 50 days on the market. "Residential One Impact Group" was identified as the listing brokerage.
- 7) The S.B. offer indicated a purchase price of \$187,000.00, an offer date of June 16, 1999, a condition date of June 25, 1999, and a completion date of July 27, 1999.
- 8) You, Wolf, drafted a waiver of the financing condition on July 6th 1999 for the S.B. offer and the names of the sellers had not been completed.
- 9) N.T. signed dual agency disclosure acknowledgement; however, S.B. did not.
- 10) You, Wolf, did not provide S.B. and N.T. with a copy of the Real Estate Purchase Contract.
- 11) You, Wolf, only showed your clients, S.B. and N.T. one property, that being 224 Deer Park Place. N.T. had requested you show them other properties.

12) This is conduct deserving of sanction, in that:

TRANSACTION #1/SALE FROM M.O. TO T.G.

- (a) You, Wolf, failed to disclose, in writing to the parties to the trade, your direct interest in the property prior to entering into a trade in real estate, that being the purchase of 224 Deer Park Place SE Calgary in breach of Rule 29 (a) (i) of the Rules, (hereinafter "the Rules") made pursuant to the Real Estate Act and Section 1 (l) prior to October 1, 1999 and Section 2 (l) post-October 1, 1999 of the Code of Conduct (hereinafter "the Code"), made pursuant to the Real Estate Act. (Hereinafter the "Act")

TRANSACTION #2/SALE WOLF/ T.G. / TO M.W.

- (b) You, Wolf, participated in the creation of a document that you knew was false and misleading in that you wrote a letter to the City of Calgary, to a S.D. and advised S.D. that M.W. had purchased 224 Deer Park Place S.E. and that he had defaulted on the agreement. You further stated that you had attended 224 Deer Park Place on July 2, 1999 to obtain the monies owing to you under the contract or post an eviction notice, when, in fact, you could not complete the contract with M.W., as you had sold 224 Deer Park Place to S.B. and N.T. on June 16, 1999, in breach of Section 3(d) of the Code prior to October 1, 1999 and 4 (d) of the Code post-October 1, 1999.

TRANSACTION #3/WOLF SALE TO S.B. AND N.T.

- (c) You, Wolf, failed to disclose, in writing to the parties to the trade, your direct interest in the property prior to entering into a trade in real estate, that being the sale of 224 Deer Park Place to S.B. and N.T. in breach of Section 18 (3) (a) of the Act, and of Rule 29 (a) (i) of the Rules, and Section 1 (l) of the Code prior to October 1, 1999 and Section 2 (l) post-October 1, 1999.
- (d) You, Wolf, by writing in the S.B. offer that the "Buyer aware seller related to realtor" participated in the creation of a contract, document or form of communication that you knew or ought to have known was false or misleading as you were the part owner of the property at the time, in breach of Section 3 (d) of the Code prior to October 1, 1999 and Section 4 (d) post-October 1, 1999.
- (e) You, Wolf, participated in the creation of a document or form of communication that you knew or ought to have known was false or misleading by reporting to the Calgary Real Estate Board that the property was sold on August 5, 1999 with a possession date of August 15, 1999, when the property was sold on June 25th and a completion date of July 27,

1999 in breach of 3(d) of the Code prior to October 1999 and Section 4 (d) post-October 1999.

- (f) You, Wolf, participated in the creation of a document that you knew or ought to have known was false and misleading by not signing the S.B. offer and waiver of conditions, in your capacity as seller, thereby in breach of Section 3 (d) of the Code prior to October 1, 1999 and Section 4 (d) post-October 1, 1999.
- (g) You, Wolf, participated in the creation of a contract that you knew or ought to have known was not legally binding in that you did not sign the S.B. offer in your capacity as seller, in breach of Section 5 (c) of the Code prior to October 1, 1999, and Section 6 (c) post-October 1, 1999.
- (h) You, Wolf, concealed the pertinent fact that you were part owner of 224 Deer Park Place, thereby in breach of Section 3 (c) of the Code prior to October 1, 1999 and 4 (c) post-October 1, 1999.
- (i) You, Wolf, failed to disclose that you and your family members had purchased 224 Deer Park Place thirty-five (35) days prior to the S.B. offer. You failed to advise S.B. and N.T. that you purchased the property for \$167,000.00, that being \$20,000.00 less than what your clients, S.B. and N.T. , purchased the property for on June 16, 1999. By failing to disclose this relevant information to S.B. and N.T. , you breached Section 1 (e) of the Code prior to October 1, 1999 and Section 2 (e) post-October 1, 1999.
- (j) You, Wolf, acted in a dual agency capacity when dual agency was not agreed to in writing by S.B. in breach of Section 2 (b) of the Code prior to October 1, 1999 and Section 3 (b) post-October 1, 1999.
- (k) You, Wolf, did not render a competent service to your clients, S.B. and N.T. , in that you did not exercise reasonable care and skill when you estimated the market value of 224 Deer Park Place SE Calgary in breach of your duties as an Agent and in breach of Section 5 of the Code prior to October 1, 1999 and Section 6 post-October 1, 1999.
- (l) You, Wolf, did not provide S.B. and N.T. with a true copy of the Real Estate Purchase Contract in breach of Rule 28 (3) (a) of the Rules prior to October 1, 1999.
- (m) You, Wolf, did not act in accordance with your client's lawful instructions. N.T. requested that you show her other properties, you refused to do so, in breach of Section 1(b) of the Code prior to October 1, 1999 and 2(b) post-October 1, 1999.

39 Queen Isabella Close SE Calgary

TRANSACTION #1 V.A.

TO 416754 ALBERTA INC.

- 13) On February 27th, 1998, Wolf acted as an agent (salesperson) for 416754 Alberta Inc. on the purchase of 39 Queen Isabella Close SE Calgary. The sole director of 416754 Alberta Inc. was C.W. , Marc Wolf's wife. The purchase price was \$132,000.00. The particulars of the February 27, 1998 offer were a \$29,000.00 down payment and an assumption of the existing mortgage in the amount of \$103,000.00 more or less. The completion date on the offer was set for April 1, 1998.

TRANSACTION #2 416754 ALBERTA INC TO D.F.

- 14) On April 22, 1998, Wolf acted as a dual agent for 416754 Alberta Inc., seller, on the sale of 39 Queen Isabella Close SE Calgary to D.F. . The purchase price was \$157,500.00 (the " D.F. offer"). The particulars of the D.F. offer were a new mortgage in the amount of \$149,625.00, and the balance of \$7,875.00 to be paid by deposit and cash to close. The closing date of the sale was April 30, 1998. Impact Real Estate is listed as the seller's and buyer's agent. The offer to purchase does not have the seller's initials in section 4.5 and section 10.5 is not completed.
- 15) Title was issued in the names of D.F. and G.D. on May 20, 1998. A new mortgage was placed on the property on the same day for the amount of \$155,235.00.
- 16) The MLS input sheet for 39 Queen Isabella Close SE Calgary indicated a listing price of \$157,900.00, and the brokerage as "Impact Real Estate Group Ltd." The sale date is shown as May 22, 1998, with an adjustment date of May 15, 1998 and a sale price of \$157,900.00. The offer to purchase and the title show a purchase price of \$157,500.00. The MLS input sheet does not disclose the buyer and seller.

TRANSACTION #3 D.F. / G.D. TO J.A. AND T.F.

- 17) On May 28, 1998, Wolf acted as a dual agent for D.F. and G.D. as seller and J.A. and T.F. as purchasers on 39 Queen Isabella Close SE Calgary (The " T.F. offer"). J.A. and T.F. purchased 39 Queen Isabella Close SE Calgary for \$178,735.00. The particulars of the T.F. offer were an assumption of a first mortgage in the amount of \$155,235.00, a second mortgage in the amount of \$8,500.00, an \$8,000.00 deposit and \$7,000.00 by further deposits on specified dates. The possession date on the T.F. offer was the next day, May 29, 1998.

- 18) Attached to the T.F. offer and forming part of the contract was an Addendum "A" wherein J.A. and T.F. agreed to allow the release of the initial deposit of \$8,000.00 to D.F. and G.D. A historical title search indicates the property was transferred into J.A. and T.F.'s names on July 8, 1998.
- 19) The Mortgagee for the second mortgage of \$8,500.00 was 416754 Alberta Inc. The sole director of 416754 Alberta Inc. is C.W. , Marc Wolf's wife. There is no disclosure on the offer that the second mortgagee was related to Wolf. The offer indicated that there would be seller financing.
- 20) The MLS input sheet for the sale of and G.D. to T.F. indicates the property sold to a purchaser named " W. " and the sale price was \$183,135.00. The purchaser's names were T.F. and J.A. and the actual sale price was \$178,735.00. Further, the MLS input sheet indicates an adjustment date of July 1, 1998, and a sale date of July 21, 1998.
- 21) T.F. was not provided with a true copy of the Real Estate Purchase Contract.
- 22) This is conduct deserving of sanction, in that:

TRANSACTION #3 D.F. / G.D. TO J.A. AND T.F.

- (a) You, Wolf, failed to disclose all relevant information to your purchasing client, T.F. , in that you did not advise her that you were involved in the purchase of 39 Queen Isabella Close by your wife's company, 416754 Alberta Inc., only 4 months prior for the amount of \$132,000.00. You failed to advise your purchasing client, T.F. , that you sold 39 Queen Isabella Close SE Calgary, to D.F. and G.D. only one month prior.
- (b) You, Wolf, failed to act in your client's best interest, in that you failed to provide the client with a list of the current prices of the properties in the area, and you failed to exercise care and skill when you estimated the value of 39 Queen Isabella Close SE Calgary.
- (c) You, Wolf, failed to act in your client's best interest by not ensuring the client received independent advice with respect to releasing the initial deposit to the sellers, when you, as an agent for T.F. , were under an obligation to recommend that she obtain independent advice.
- (d) You, Wolf, failed to provide T.F. with all relevant information in that you failed to advise T.F. in writing that the second mortgagee was your wife's numbered company.
- (f) You, Wolf, did not provide T.F. with a true copy of the Real Estate Purchase Contract in breach of Rule 28 (3) (a) of the Rules prior to October 1, 1999.

228 Queen Charlotte Way SE

TRANSACTION #1 G.R. TO 416754 ALBERTA INC.

- 23) On April 30 1998, Wolf acted as the Buyer's Agent in an offer between G.R. , as seller, and 416754 Alberta Inc., as buyer, in an offer for 228 Queen Charlotte Way SE. The purchase price was \$139,000.00. The particulars of the offer were an assumption of mortgage in the amount of \$89,000 with an \$50,000 down payment. Completion date was to be October 31, 1998. Disclosure on the offer states "Seller aware buyer is related to selling realtor."
- 24) Upon transfer of the title on November 2, 1998 from G.R. , the new registered owner was not 416754 Alberta Inc. but 800008 Alberta Ltd., another company with C.W. as the sole director.

TRANSACTION #2-800008 ALBERTA LTD TO D.W. AND MARC WOLF

- 25) On November 2, 1998, you, Wolf, re-listed 228 Queen Charlotte Way SE for the amount of \$164,900.00. The listing brokerage was "Impact Real Estate Group Ltd."
- 26) On November 11, 1998, 800008 Alberta Ltd. sold 228 Queen Charlotte Way SE Calgary to D.W. and Marc Wolf for the amount of \$162,500.00. The particulars of the transaction were a new first mortgage of \$154,375.00 and the balance of \$8,125.00 by way of initial deposit and cash to close. Completion day was November 27, 1998. Title was issued on December 14th 1998 to Marc Wolf and D.W. Value of the property on the title was listed as \$162,015.00.
- 27) The MLS input sheet indicates a list date of November 2, 1998, a sale date of December 7 1998, and a December 15th 1998 adjustment date.

TRANSACTION #3 D.W. AND MARC WOLF TO 416754 ALBERTA INC.

- 28) On June 11, 1999 D.W. and Marc Wolf transferred 228 Queen Charlotte Way SE Calgary to 416754 Alberta Inc. The consideration indicated on title was cash and mortgage. The value was listed as \$162,015.00.

TRANSACTION #4-416754 ALBERTA INC. TO R.K.

- 29) On October 8, 1999, 228 Queen Charlotte Way SE Calgary was sold to R.K. for the amount of \$180,000.00 (the "R.K. offer"). Particulars of the transaction were an assumption of mortgage of \$158,000.00, a \$10,000.00 second mortgage by seller financing, \$2,000.00 initial deposit and \$10,000.00 balance owing. Disclosure on the offer states "Buyer aware realtor is related to seller/owner."

- 30) R.K. signed dual agency disclosure acknowledgement; however, the listing agent and prospective buyer sections were not completed.
- 31) The Calgary Real Estate Board MLS input sheet indicated that 228 Queen Charlotte Way SE Calgary was listed on September 29, 1999, a sale date of November 4, 1999, and an adjustment date of November 4, 1999. The days on the market are listed as thirty-six. The brokerage is listed as "Residential One Impact Group"
- 32) This is conduct deserving of sanction, in that:

TRANSACTION #4-416754 ALBERTA INC. TO R.K.

- (a) You, Wolf, participated in the creation of a document that you knew or ought to have known was false or misleading in that you made representations on the Calgary Real Estate Board MLS input sheet by stating that 228 Queen Charlotte Way SE Calgary was sold on November 4th 1999, an adjustment date of November 4, 1999, with a total of thirty six days on the market. When, in fact, the property was sold to R.K. on October 8, 1999 and not November 4, 1999, and as such was only on the market for 9 days. Additionally, you, Wolf, indicated on the MLS Listing that the brokerage for the transaction was Residential One Impact Group when the brokerage was not the brokerage in the transaction, thereby breaching Section 3 (d) of the Code prior to October 1, 1999 and Section 4 (d) post-October 1, 1999.

189 Wood Valley Drive SW

TRANSACTION #1 PRUDENTIAL RELOCATION TO WOLF

- 33) On or about September 28, 1997, you, Wolf, were the agent for a buyer listed as "Wolf" on an offer to purchase of 189 Wood Valley Drive SW Calgary. The particulars of the offer to purchase were a purchase price of \$196,000.00, a new mortgage of \$176,400.00, the balance of \$19,600.00 to be paid by way of deposit and cash to close. The completion date was October 12, 1997. On or about October 8, 1997, you, Wolf, completed a waiver of financing conditions for the purchase of 189 Wood Valley Dr. SW. The waiver does not include the seller's name, and there is no date in the portion referencing the offer.
- 34) On October 24, 1997, title to 189 Wood Valley Drive SW Calgary was transferred into the names of Marc Stuart Wolf and D.W.

TRANSACTION #2 WOLF TO 416754 AB. INC.

- 35) On November 11, 1997, you, Wolf, listed 189 Wood Valley Dr. SW Calgary for the list price of \$259,900.00. The MLS input sheet indicates a first mortgage in the amount of \$180,800.00 and a second mortgage in the amount of \$28,500.00. The MLS input sheet indicates that the property was sold to 416754 Alberta Inc. with a sale date of March 9, 1998, an adjustment date of March 10, 1998, a sale price of \$254,900.00, and the brokerage is listed as Impact Real Estate Group Ltd.
- 36) The title to 189 Wood Valley Drive SW Calgary was transferred to 416754 Alberta Inc. on June 29, 1998. The sole director of 416754 Alberta Inc. is C.W. , Marc Wolf's wife. The consideration as set out on the title was cash and mortgage with the sworn value of \$245,000.00.

TRANSACTION #3-416754 ALBERTA INC. TO M.'s

- 37) On March 27, 1999, you, Wolf, acted as a dual agent in the sale of 189 Wood Valley Dr. SW Calgary, wherein 416754 Alberta Inc. was the seller and L.M. and D.M. (M.'s) were the purchasers. Dual agency disclosure acknowledgment was executed. The particulars of the offer were a purchase price of \$255,000.00, an assumption of the mortgage of \$177,384.00, a second mortgage by way of seller financing for \$37,616.00, and, the balance of the purchase price paid by deposits and cash to close in the amount of \$40,000.00. All deposits were paid directly to the seller or the director of the seller, C.W. . Possession date was set for September 1, 1999.
- 38) On June 24, 1999 L.M. signed an agreement to take possession of 189 Wood Valley Drive SW Calgary as a tenant-at-will. Further agreements were entered into agreeing to allow the M.'s to take possession as of July 1, 1999, and if the transaction failed to complete, the M.'s would forfeit all the deposits and would be required to vacate the property. Rent in the amount of \$1,500.00 per month was to be paid for the duration of the tenancy-at-will. A further agreement was entered into by the M.'s allowing for the deposits to be released to the seller. No dates were indicated on the latter two agreements. At the time of closing, the first mortgage was in the amount of \$175,134.93, the second mortgage, by way of seller financing, was \$40,427.88. Title to 189 Wood Valley Drive was transferred to the M.'s on September 16th 1999.
- 39) The M.'s did not receive a copy of the Real Estate Purchase Contract.
- 40) Wolf showed the M.'s only two properties. Both properties were associated with Wolf.

41) This is conduct deserving of sanction, in that:

TRANSACTION #2 WOLF TO 416754 AB. INC.

(a) You, Wolf, knowingly or recklessly made a representation in the course of advertising or marketing a property that was materially untrue. You listed on the MLS input sheet, in November 1997, that 189 Wood Valley Drive SW was listed with Residential One Impact Realty when the property was not listed with Residential One Impact Realty.

TRANSACTION #3-416754 ALBERTA INC. TO M.'s

(b) You, Wolf, did not fulfill your fiduciary duties to your purchasing client M.'s , specifically you did not act in your client's best interests, by not providing the M.'s with a list of the current selling prices of the properties in the area and you failed to use proper skill and knowledge when you estimated the value of 189 Wood Valley Dr. SW Calgary, in breach of your duty as an Agent and in breach of Section 1 (a) of the Code prior to October 1, 1999 and Section 2 (a) post-October 1, 1999.

(c) You, Wolf, did not disclose all relevant information to the M.'s in that you did not advise the M.'s that the average price of homes on Wood Valley Drive was \$215,575.00, that being \$39,425.00 less than what the M.'s paid for 189 Wood Valley Drive SW, in breach of Sections 1(e) of the Code prior to October 1, 1999 and 2 (e) post-October 1, 1999.

(d) You, Wolf, did not use your best efforts to ensure that the M.'s obtain independent advice when a prudent industry member would conclude a client may be in a vulnerable position in that your wife's company was the seller; you acted in a dual agency capacity and your wife's company was the second mortgagee, in breach of Section 1 (k) of the Code prior to October 1, 1999 and 2 (k) post-October 1, 1999, and Section 1(m) of the Code prior to October 1, 1999 and 2 (m) post-October 1, 1999.

(e) You, Wolf, failed to act in your client's best interest by not ensuring that all deposits were held by an independent party, and by allowing the release of the deposit to your wife's numbered company prior to the completion date, thereby in breach of Section 1 (a) of the Code prior to October 1, 1999 and Section 2 (a) post-October 1, 1999.

(f) You, Wolf, did not provide the M.'s with a true copy of the offer to purchase for 189 Wood Valley Drive in breach of Section 28 (3) (a) of the Rules prior to October 1, 1999.

189 Wood Valley Drive Continued

TRANSACTION #4 M.'s

TO WOLF

- 42) On or about July 28, 2000, you, Wolf re-listed 189 Wood Valley Dr. SW Calgary on behalf of D.M. The listing agreement indicated the brokerage as Trans/Act Real Estate with a list price of \$274,900.00. The expiry on the listing was December 31, 2000. The real estate commission was seven percent on the first hundred thousand and three percent on the balance. The brokerage was offering other brokerages compensation of three percent on the first hundred thousand and one percent on the balance. No offers were presented during the listing period.
- 43) One day after the listing expired, that being January 1, 2001, D.M. received a letter from the second mortgagee, 416754 Alberta Inc. The letter indicated that M.'s , as mortgagor, was in arrears and that the mortgagee was not going to renew the mortgage for a further term. C.W. signed the letter. Additionally, the letter advised that the interest rate would increase from fourteen percent to nineteen percent.
- 44) On or about January 17, 2001, M.'s re-listed 189 Wood Valley Drive SW with Realty Executives Chinook City. The sellers' agents were J.J. and D.G. The list price was \$229,900.00. The listing was to expire on May 1, 2001.
- 45) On or about February 8, 2001, received an offer from a purchaser named E.L. Purchase price was \$202,737.00. D.M. did not counter the offer.
- 46) During the listing with Realty Executives Chinook City, Wolf met with the M.'s and advised them the list price was too low for 189 Wood Valley Drive SW.
- 47) On or about February 15, 2001, Wolf acted as the purchaser's agent in an offer to purchase (the first offer) of 189 Wood Valley Dr. SW Calgary. The purchase price offered was \$229,900.00. The buyer was 898665 Alberta Ltd. C.W. is the director of 898665 Alberta Ltd. The particulars of the offer were the purchaser would pay an initial down payment of \$16,871.00, assume the first and second mortgages of \$172,737.00 and \$40,292.00 respectively. The second mortgagee was held by one of M.'s numbered companies. The offer was countered by D.M. but not accepted by the purchaser.
- 48) On or about February 19, 2001, Wolf acted as the purchaser's agent in an offer to purchase (the second offer) of 189 Wood Valley Drive SW Calgary. The purchaser was 898665 Alberta Ltd. The purchase price offered was \$224,070.00. The particulars of the offer were \$5,000 as a down payment, assumption of the first mortgage of \$172,737.00, assumption of the second mortgage of \$40,292.00, and a cash balance to close of \$6,041.00. The offer included an extensive addendum that included a clause that set off the selling commissions against the purchase price,

the disclosure and other particulars. This offer was not accepted or even countered by D.M.

49) On or about March 15, 2001, Wolf acted as agent for 898665 Alberta Ltd. in an offer to purchase of 189 Wood Valley Drive SW Calgary. The purchase price offered was \$229,900.00 (the third offer). The particulars of the offer were an initial deposit of \$11,041.10, assumption of the first mortgage in the amount of \$172,737.00, assumption of the second mortgage in the amount of \$40,292.00, and \$5,829.90 by way of a set off of the selling agent's commission. M.'s accepted this offer.

50) This conduct is deserving of sanction, in that:

(a) You, Wolf, failed to advise you client D.M. that the listing fee that you were charging for the sale of 189 Wood Valley Drive was four percent on the first one hundred thousand and two percent on anything over one hundred thousand. You further failed to advise D.M. that you would offer other brokerages a selling commission of three percent on the first one hundred thousand and one percent on the balance over one hundred thousand, in breach of Section 4 (a) of the Code prior to October 1, 1999 and Section 5 (a) post-October 1, 1999.

(b) You, Wolf failed to act in your client's best interest in that you failed to use reasonable care and skill when you estimated the value of 189 Wood Valley Dr. SW Calgary, on July 28, 2000 in breach of your duties as an Agent and in breach of Section 2 (a) of the Code post-October 1, 1999.

(c) You, Wolf, interfered with the contractual arrangement relating to the listing between the M.'s and Realty Executive Chinook City, in breach of Section 7 (h) of the Code post-October 1, 1999.

629 Agate Cres. SE Calgary

Transaction #1 G.D. Purchase

51) You, Wolf, on or about February 6, 1999, acted as agent for G.D. on the purchase of 629 Agate Cr. SE Calgary. The offer to purchase is signed in the name of D.D. . The particulars of the purchase were a new first mortgage of \$130,625.00 and the balance of \$6,875.00 by way of deposit and cash to close. The total purchase price was \$137,500.00 and possession date was set for March 1, 1999. When title was transferred on March 1, 1999, the title was in the name of G.D.

Transaction #2 G.D. to W./S.

- 52) You, Wolf, acted as dual agent in the sale of 629 Agate Cres. SE Calgary from G.D. to C.W. and K.S. ("W./S.") on or about March 20, 1999 in the amount of \$165,500.00 (The "W./S. purchase").
- 53) You, Wolf, led C.W. and K.S. to believe that D.D. owned 629 Agate Cres. SE. You further advised that the mortgage on the property had just been renewed and that the property had been previously rented.
- 54) C.W. and K.S. requested that Wolf provide them with a list of comparable properties in the area. No list was provided.
- 55) You, Wolf, did not provide C.W. and K.S. with a true copy of the offer to purchase.
- 56) C.W. instructed Wolf to include a number of terms in the offer to purchase. The specific terms C.W. wanted included were repairs on the property, some yard care and garbage removal. No provision was made for this request in the offer to purchase.
- 57) That on March 24, 1999, you, Wolf, signed the waiver of conditions as witness to C.W.'s and K.S.'s signatures.
- 58) You, Wolf, indicated "Residential One Impact" as seller's agent and buyer's agent on the offer to purchase.
- 59) This is conduct deserving of sanction, in that:
- (a) You, Wolf, did not disclose all relevant information to C.W. and K.S. in that you did not advise them that you acted as the purchaser's agent in the purchase of 629 Agate Cres. SE Calgary three weeks prior to the C.W. purchase. Further, you did not advise C.W. and K.S. that the property was purchased for \$28,000.00 less than what C.W. and K.S. paid on March 20, 1999, in breach of Section 1 (e) of the Code prior to October 1, 1999 and 2 (e) post-October 1, 1999 and this was not in your client's best interest in breach of Section 1(a) of the Code prior to October 1, 1999 and 2 (a) post-October 1, 1999.
 - (b) You, Wolf, knowingly or recklessly made a representation in the course of marketing 629 Agate Cres. SE Calgary that was untrue, in that you advised C.W. and K.S. that the mortgage on the property had just been renewed. The mortgage was not being renewed as it had just been placed on the property. Further, you led C.W. and K.S. to believe that D.D. owned the property, when D.D. did not own the

property. This is in breach of Section 3 (a) of the Code prior to October 1, 1999 and 4 (a) post-October 1, 1999.

- (c) You, Wolf, failed to provide C.W. and K.S. with a true copy of the offer to purchase, in breach of Rule 28 (3) (a) of the Rules prior to October 1, 1999 and Rule 27 (a) post-October 1, 1999.
- (d) You, Wolf, failed to obtain dual agency agreement in writing prior to acting on behalf of C.W. and K.S., in breach of Section 2 (c) of the Code prior to October 1, 1999 and Section 3 (c) post-October 1, 1999.
- (e) You, Wolf, did not act in accordance with your client's lawful instructions in that you did not draft the offer to purchase to include the terms requested by C.W., in breach of Section 1 (b) of the Code prior to October 1, 1999 and 2 (b) post-October 1, 1999 and your failure to draft the requested terms was not in your client's best interest in breach of Section 1(a) of the Code prior to October 1, 1999 and 2(a) post October 1, 1999.
- (f) You, Wolf, knowingly made a representation in the course of marketing 629 Agate Cres. SE that was untrue in a material respect in that you advised C.W. and K.S. that you had spoken to your manager and he, (your manager), would not allow you to leave any documents with current market prices of homes in the area for C.W. and K.S. to review. When, in fact, you never called your manager, D.C., to request that you be allowed to leave current market value information with C.W. and K.S., in breach of Section 3 (a) of the Code prior to October 1, 1999 and 4 (a) post-October 1, 1999.
- (g) You, Wolf, participated in the creation of a contract or document that you knew or ought to have known was false and misleading by indicating in the C.W. offer to purchase that "Residential One Impact" was the Seller's and Buyer's agent when you knew that Residential One Impact Real Estate did not have the listing for 629 Agate Cres. SE, in breach of Section 3 (d) of the Code prior to October 1, 1999 and 4 (d) post-October 1, 1999.
- (h) You, Wolf, participated in the creation of a contract or document that you knew or ought to have known was not legally binding, by witnessing the signatures of C.W. and K.S. when neither C.W. or K.S. signed the waiver of conditions document, in breach of Section 5 (c) Code prior to October 1, 1999 and Section 6 (c) post-October 1, 1999.
- (i) You, Wolf, participated in the creation of a contract or document that you knew or ought to have known was false and misleading by witnessing the signatures of C.W. and K.S. when C.W. and K.S. did not sign the waiver of conditions on the purchase of 629 Agate Cres. SE, in breach of

168 Shawinigan Drive SE

Transaction #1 K. Transfer to C.W.

- 60) On or about August 6, 1991, F.K. and I.K. transferred 168 Shawinigan Drive SE as transferors to C.W. as transferee. Title indicates that the true consideration paid by C.W. was cash and an assumption of mortgage. The value of the property was sworn as \$124,000.00. Approximately 17 days later, the property was transferred or sold to B.K. and J.K. (the K.'s) for the consideration of \$136,000.00.

Transaction #2 C.W. to K.

- 61) On or about June 26, 1997, the K.'s listed 168 Shawinigan Drive SW Calgary for sale. Wolf was listed as the seller's agent. The listing provided for an expiry date of December 25, 1997. The asking price was not included on the listing contract.
- 62) On or about July 18, 1997, Wolf offered to purchase 168 Shawinigan Drive SW Calgary, Alberta for the amount of \$157,900.00. The particulars of the transaction were a \$500.00 deposit, new financing in the amount of \$118,475.00 with \$38,925.00 cash to close the transaction. At the time of closing of the transaction, K.'s first and second mortgage balances were \$118,554.92. There were other financial encumbrances on the title that were paid out by K.'s lawyer. The difference between the new mortgage placed on the property, by Wolf, and the outstanding balance on the old first and second mortgages was approximately \$130.00. In an undated memo, Wolf agreed to transfer 168 Shawinigan back to the K.'s on or before March 1, 1998.
- 63) The MLS input sheet for 168 Shawinigan Drive SW indicated a list date of June 27, 1997, a list price of \$157,900.00, the Listing Brokerage as Impact Real Estate Group Ltd. and the purchaser as " D. ."
- 64) The statement of adjustments on the sale of 168 Shawinigan Drive SW Calgary indicated that the cash to close of \$38,925.00 was not cash but was a credit to the purchaser, (Wolf), by way of promissory note in the amount of \$13,925.00 and \$25,000.00 by way of improvements.
- 65) During the time that Wolf held the property in his name, K.'s paid \$1,300.00 per month to Wolf for rent. The rent was to cover the first and second mortgage. There was no second mortgage registered on the property during the time Wolf held the property in his name.

66) On or about June 30, 1998, Mark Wolf transferred 168 Shawinigan Drive SW Calgary back to the K.'s for the amount of \$142,000.00. The K.'s assumed the mortgage that had been placed on the title by Wolf with an original principal amount of \$118,425.00. Wolf then took a \$25,000.00 second mortgage on the property.

67) 168 Shawinigan Drive SE was advertised for sale on the MLS on September 27, 1999.

68) This is conduct deserving of sanction in that:

(a) You, Wolf, drafted a listing agreement for the sale of 168 Shawinigan Drive SW Calgary, and that you failed to indicate the asking price for the property, thereby rendering the terms of the contract uncertain.

(b) You, Wolf, failed to act in your client's best interest when you offered to purchase 168 Shawinigan Drive SW from your K.'s, you did not ensure that your client receive independent advice with respect to selling you 168 Shawinigan Drive when it was your duty as their Agent to advise the to seek independent advice.

(c) You, Wolf, participated in an offer to purchase that did not accurately reflect the true consideration paid by you for 168 Shawinigan Drive SW. You did not pay the balance due as set out in the offer to purchase of \$38,925.00. The cash to close (balance owing) was never paid but was represented in the statement of adjustments as a promissory note and improvements.

(d) You, Wolf, breached your duty of loyalty to the K.'s in that you purchased their property without first communicating to them all the relevant information. More specifically, you did not advise the K.'s of the cost of your services to take over 168 Shawinigan Drive for six months. This knowledge would have influenced the K.'s decision in determining if they should sell the property to you. Further, the transaction was not a righteous one in that you purchased the property for approximately \$119,000.00, and not \$157,900.00 as set out in the offer to purchase.

(e) You, Wolf, breached your duty of loyalty to the K.'s in that you misused information provided to you by K.'s in that you knew the K.'s were in the final stages of foreclosure, and at that time you offered to K.'s purchase the property for \$119,000.00 and not the \$157,900.00 as set out in the offer to purchase thereby advancing your own interests.

(f) You, Wolf, failed to disclose all relevant information to the K.'s in that you failed to advise the K.'s that you were going to register a \$25,000.00 mortgage on the property when you transferred the property back to them.

(g) You, Wolf, advertised 168 Shawingan on September 27, 1999 without the approval and knowledge of the K.'s in breach of Section 3 (b) of the Code prior to October 1, 1999 and Section 4 (b) post October 1, 1999.

136 Deer Moss Cres. SE

Transaction #1 Buchholz to D.D.

- 69) You, Wolf, acted for the purchaser D.D. on January 27, 1998 for the purchase of 136 Deer Moss Cres. SE Calgary, Alberta. The particulars of the offer to purchase and amendments thereto were a purchase price of \$154,000.00, a completion date of March 27, 1998, and a new mortgage of \$146,300.00. The balance of the purchase price was to be paid by deposits in the amount of \$7,700.00. The seller was B.U.
- 70) When title transferred from B.U. on March 24, 1998 the title was in the name of A.C. and R.D. A new mortgage in the amount of \$149,957.00 was registered on the same day.
- 71) On April 8, 1998, you, Wolf, re-listed 136 Deer Moss Cres. SE for the amount of \$179,900.00. The MLS input sheet indicates the seller as undisclosed.
- 72) On April 8, 1998, you, Wolf, received a full price offer to purchase for 136 Deer Moss Cres. SE. The purchasers were C.S. and W.C. Another industry member represented the purchasers. The names of the sellers, A.C. and G.D., are not on the offer to purchase. The offer was subject to financing and a home inspection. The offer did not proceed as the inspection indicated the roof and foundation required repairs.

Transaction #2 G.D. / A.C. to P.G.

- 73) On April 11, 1998, you, Wolf, received an offer from P.G. for 136 Deer Moss Cres. SE Calgary. The particulars of the offer were a purchase price of \$179,900.00, an initial deposit of \$10,000.00, an assumption of mortgage in the amount of \$149,950.00, and a balance owing of \$19,950.00. The sellers' names are not on the offer to purchase. You were acting in a dual agency capacity.
- 74) The dual agency disclosure notice didn't include the sellers' names.
- 75) P.G. was not provided with any current market value information on 136 Deermoss Cr. SE and she viewed only one property. Further, you advised P.G. that you needed \$30,000.00 down, and if P.G. didn't have the \$30,000.00, then they would not get the property.

76) This is conduct deserving of sanction in that:

- (a) You, Wolf, failed to disclose all relevant information to your client, P.G. , in that you did not advise P.G. that you were involved in the purchase of 136 Deer Moss Cres. in January 1998 for the amount of \$154,000.00, that being \$25,900.00 less than what P.G. purchased the property for in April 1998.
- (b) You, Wolf, failed to disclose all relevant information to your client, P.G. , in that you failed to advise P.G. that you and the seller, G.D. and A.C. , had worked together in the past.
- (c) You, Wolf, did not use reasonable care and skill in drafting the offer to purchase in the P.G. transaction in that you did not complete the name of the sellers in the offer to purchase.
- (d) You, Wolf, did not act in your client's best interest in that you did not provide your client with any current market value information on 136 Deermoss Cr. SE, and you did not show your client, P.G. , any other properties so that she could make an informed decision on the purchase of 136 Deermoss Cr. SE.

10701 Hidden Valley Dr. NW

77) K.N. listed 10701 Hidden Valley Drive NW Calgary. was a personal friend of the seller, K.C. . C.J. and S.J. ("the J.'s") viewed 10701 Hidden Valley Drive NW ("Hidden Valley") which was listed at \$164,900.00. Wolf attended the showing and was the J.'s agent.

78) The J.'s had a \$10,000.00 deposit to purchase the property. This information was provided to Wolf. The assumable mortgage on Hidden Valley was \$146,500.00. the J.'s instructed Wolf to draft an offer for an assumption of mortgage of \$146,500.00 and the \$10,000.00 deposit making the offer \$156,500.00. Wolf advised the J.'s that the seller would not take less than the list price of \$164,900.00, but with Wolf's help the J.'s could purchase the property. Wolf advised the J.'s that he would lend \$8,000.00 to the J.'s to purchase Hidden Valley.

79) Wolf drafted an offer, as the J.'s agent, for the purchase of Hidden Valley on March 31, 1997. The particulars of the transaction, as set out in the offer to purchase, are an assumption of a mortgage in the amount of \$146,500.00 with the balance of the purchase price to be paid by cash to close and deposit in the amount of \$10,005.00 for a total purchase price of \$156,505.00. Completion date was for May 1, 1997. Wolf advised the J.'s that he would pay the \$8,000.00 dollars directly to the seller of Hidden Valley thereby making the total purchase price \$164,505.00.

80) Thereafter, Wolf attended Hidden Valley Drive and spoke to the seller and K.N. Wolf advised both the seller and K.N. that the J.'s only had \$10,000.00 to put down as a down payment. K.N. advised Wolf and the seller that he would cancel the listing and back out of the deal, because the J.'s only had \$10,000.00 to close the transaction. If K.N. continued to act, the commissions would account for most of the \$10,000.00 deposit. K.N. advised Wolf and the seller that if he stepped out of the transaction, there would be some equity left for the seller. K.N. cancelled the listing and Wolf wrote a new listing with a list price of \$156,500.00 and a commission of \$250.00. The listing brokerage was Impact Real Estate. K.N. asked Wolf how he intended to be paid, and Wolf replied that he would work something out with the J.'s. The seller accepted the offer of \$156,505.00. The offer included a clause that if the mortgage was less than what was set out in the offer to purchase, then the purchase price would be adjusted accordingly. The financing schedule sets out this agreement with the wording "Cash to assumption of mortgage will not exceed \$10,000 (ten thousand dollars). Actual purchase price will be adjusted accordingly."

81) The J.'s and Wolf agreed that the \$8,000 loan to purchase the property of Hidden Valley would be secured by a promissory note that could be registered against the title. No time was set to register the promissory note. The interest rate was 16%.

82) Due to the high interest rate, the J.'s borrowed the funds from a relative and paid Wolf back the \$8,000.00.

83) In September of 1997, the J.'s decided to sell Hidden Valley and was advised that he paid \$156,505.00 for the property. The J.'s called K.N. to inquire why documents indicated he had paid \$156,505.00 for Hidden Valley. The J.'s informed K.N. that he paid a \$18,005.00 down payment for the property and not \$10,005.00 as he had paid Wolf the extra \$8,000.00 directly.

84) This is conduct deserving of sanction in that:

(a) You, Wolf, did not disclose all relevant information to your principal, the J.'s in that you did not advise the J.'s that the seller of Hidden Valley had accepted an offer of \$156,505.00.

(b) You, Wolf, did not disclose all relevant information to the J.'s in that you did not advise the J.'s that you never paid K.C. \$8,000.00.

(c) You, Wolf, did not act in your client's best interest by charging the J.'s a commission or remuneration in the amount of \$8,000.00.

(d) You, Wolf, breached your fiduciary duties to your client, the J.'s in that you allowed your own personal interests to conflict with the obligations you owed to your principal, by obtaining \$8,000.00 from the J.'s under false pretenses and by charging 16% interest on \$8,000.00 in the promissory note.

79 Shawinigan Dr. SW

- 85) L.C. listed 79 Shawinigan Dr. SW Calgary on May 13, 1998. The list price was \$169,900.00.
- 86) Wolf acted as the Buyer's Agent on an offer to purchase for 79 Shawinigan Dr. SW on June 17, 1998. The buyer is listed on the offer to purchase as "Wolf." The disclosure on the offer states, "The seller is aware that the buyer is related to the selling Realtor."
- 87) In an undated letter to L.C., Marc Wolf states "this is to advise you that Royal Bank has required me to sign with D.W. for the mortgage. I therefore will be on title. Thanks Marc."
- 88) This is conduct deserving of sanction, in that:
- (a) You, Wolf, failed to disclose your direct interest in the property prior to entering into a contract to purchase 79 Shawinigan Drive SW in breach of Rule 29 (a) (i) of the Rules, made pursuant to the Real Estate Act.

76 Shawglen Way SW

Transaction #1 G.D. Purchase

- 89) You, Wolf, acted as the purchaser's agent in an offer to purchase of 76 Shawglen Way SW on March 16, 1998. The name of the buyer is not listed on the offer to purchase. The signature of the purchaser is G.D. The particulars of the offer are a purchase price of \$116,000.00, new financing for \$87,000.00, with the balance of \$29,000.00 to be paid by deposit and cash to close. Completion date was scheduled for June 1, 1998.
- 90) On or about March 20, 1998, you, Wolf, drafted an amendment to the real estate purchase contract and named D.F. as the buyer of 76 Shawglen Way SW.

Transaction #2 Undisclosed Seller (D.F.) to Buyer A.N.

- 91) On June 4 1998, you, Wolf, listed 76 Shawglen Way. The MLS input sheet indicates a list price of \$144,900.00, the seller as undisclosed, a buyer named A.N., Wolf as agent for the buyer and seller, and a sale price of \$139,900.00. The adjustment date on the MLS input sheet is September 1, 1998.

Transaction #3 Seller undisclosed to J.N. Purchase

92) On September 1, 1998, you, Wolf, re-listed 76 Shawglen Way for the list price of \$156,900.00. The seller was undisclosed on the MLS input sheet, the purchaser was J.N. and the sale price was \$152,000.00. The purchaser's agent did not receive a copy of the final accepted offer.

93) This is conduct deserving of sanction, in that:

D.F. Sale to A.N.

(a) You, Wolf, failed to name the purchaser in the offer to purchase thereby rendering the parties to the contract uncertain.

A.N. to J.N.

(b) You, Wolf, failed to provide a true copy of the offer to purchase, to the buyer's agent in breach of Rule 28 (3) (b) prior to October 1, 1999 and Rule 27 (b) post-October 1, 1999.

67 Fyffe Road SE

94) You, Wolf, acted as the agent for "Wolf" as purchaser on 67 Fyffe Road SE. The particulars of the offer were a sale price of \$142,500.00 with new financing in the amount of \$135,375.00. Completion date of the contract was June 1, 1999.

95) On or about April 30, 1999 the condition precedent was waived and the offer to purchase of 67 Fyffe Road SE. became a firm deal.

96) On an undisclosed day in May 2000, you, Wolf, sent D.C. a note stating that the mortgage company required you to be on title of 67 Fyffe Road and requested D.C. advise the listing realtor.

97) This is conduct deserving of sanction in that:

(a) You, Wolf, participated in the creation of a false and misleading document in that you drafted a letter to D.C., one year after the real estate transaction closed, stating that you were required to be put on title, in breach of Section 3 (d) of the Code prior to October 1, 1999 and Section 4 (d) post-October 1, 1999.

Failure to cooperate with an Investigator of the Real Estate Council

76 Shawglen Way SW

- 98) You, Wolf, attempted to mislead the Investigator, Mr. Dan Gilliland, by stating your only involvement with 76 Shawglen Way SW Calgary was when you acted as agent for D.D. as purchaser on March 16, 1998. When asked by the Investigator "Did you have any involvement, Marc, in the subsequent sales of 76 Shawglen Way Southwest"? You answered "No." The Investigator asked you again if you had any involvement with the subsequent sales of 76 Shawglen Way SW by asking you the question "That was the only time that you were involved, is when N.A. sold it to D.F. "? You answered "Yes."
- 99) The Investigator then showed you an MLS input sheet wherein you listed 76 Shawglen Way SW for the amount of \$144,900.00. The list date was June 4, 1998 and you acted as a dual agent for the seller and buyer. The MLS input sheet indicated that the seller was undisclosed, the buyer as A.N. and the possession date as September 1, 1998. You advised the Investigator that you were involved in that sale. At that same time, you also advised the Investigator that you were not involved in the subsequent transaction of 76 Shawglen Way SW.
- 100) You, Wolf, were then shown an MLS Listing input sheet that evidenced that you re-listed 76 Shawglen Way SW on September 1, 1998 and that you were the seller's agent. The list price was \$156,900.00. The property was sold to J.N. for \$152,000.00. The MLS input sheet indicates a seller as undisclosed.

136 Deermoss CR. SE

- 101) You, Wolf, advised the Investigator that you did not fill in the sellers name in the real estate purchase contract between A.C. and R.D. as sellers and P.G. as purchaser because you did not know who owned 136 Deermoss Cr. However, you were involved in an offer to purchase of the same address only 3 days prior. You knew who the sellers were on April 11, 1998 because you had conditionally sold 136 Deermoss Cr. on April 8, 1998.
- 102) You, Wolf, advised the Investigator that when you act in a dual agency capacity, you tell your clients that they can make another offer that may be lower than the list price. However, you, Wolf, did not allow P.G. to offer a lower than list price.

224 Deerpark Place

- 103) You, Wolf, advised the Investigator that the W.'s purchased 224 Deer Park Place on a rent-to-own basis. You advised the Investigator that "Like I said, they [W.'s] bought it with the intention of moving in, I don't know how much or

whatever they did after that." When, in fact, you, Wolf, wrote a letter to the City of Calgary in June 1999 and explicitly stated that the W.'s resided in 224 Deer Park Place for one and half months.

- 104) You, Wolf, advised the Investigator that it was your son, D.W. , that entered into a rental agreement with an ."..option to a fellow [M.W.] who didn't complete it. And he moved out and then he {Marc's son} just sold it to someone. To...to a... to a couple that was looking for a property." When, in fact, you, Wolf, entered into the agreement to lease with an option with M.W. and, you, Wolf, sold the property to S.B. and N.T. .

168 Shawinigan Drive

- 105) You, Wolf, advised the Investigator that the occupants of 168 Shawinigan Drive SW were tenants when, in fact, the occupants were the K.'s and they owned the property.

- 106) You, Wolf, advised the Investigator that the K.'s sold 168 Shawinigan Drive SW to you and thereafter decided to continue to reside in the property. Further, you advised the Investigator that the K.'s "after a while they said look, you know...we're interested in buying it back, can we work out a deal"? When, in fact, you, Wolf, had agreed to transfer 168 Shawinigan back to the K.'s when you purchased the property on July 18, 1997.

Paragraphs 98 to 106 as set out above is conduct deserving of sanction in that:

- 110) You, Wolf, failed to cooperate with the person conducting the investigation by providing inaccurate and misleading information to the Investigator of the Real Estate Council of Alberta in breach of Section 38 (4) of the Real Estate Act.

AND FURTHER TAKE NOTICE that the Hearing Panel may make one or more of the orders outlined in section 43 of the Real Estate Act, including but not limited to an order for cancellation or suspension of any authorization issued to the industry member by the Council, a fine and costs.

AND FURTHER TAKE NOTICE that the following Hearing Panel members will hear the charges against you:

1. Barry Gogal
2. Glen Chapman
3. David Hicks
4. Ken Green (alternate)

If you have any objections to the composition of the Hearing Panel, you must notify the Real Estate Council of Alberta of your objections, together with the reasons for your

objections within 14 days. If you fail to object to the composition of the panel within 14 days, the proposed panel will hear the charges against you.

AND FURTHER TAKE NOTICE that oral submissions shall be heard by the Hearing Panel. If you fail to attend the hearing, the Hearing Panel will hear the case and make a decision in your absence.

DATED at the City of Calgary, in the Province of Alberta, this 4 day of December 2001.

Real Estate Council of Alberta

"Bob Myroniuk"

Bob Myroniuk
Executive Director

THE REAL ESTATE COUNCIL OF ALBERTA

IN THE MATTER OF Subsection 39(1)(b) and 41 of the *Real Estate Act*, S.A. 1995,
c.R-4.5

AND IN THE MATTER OF a Hearing regarding the conduct of Marc Wolf
Registered as an agent (salesperson) with Trans/Act Real Estate Corporation and
formerly registered as an agent (salesperson) with Impact Real Estate Group Ltd.
o/a Residential One Impact Real Estate Group

Hearing Panel Members:

Barry Gogal, Chairman
Glen Chapman
David Hicks

Appearances:

Marc Wolf – on his own behalf

Jocelyn Caldwell – on behalf of the
Executive Director of the Real Estate
Council of Alberta

Hearing Dates:

March 6 & 7, April 5 & 6, 2002
Calgary Alberta

DECISION

UPON this matter coming before the Hearing Panel of the Real Estate Council of Alberta at a Hearing Held on the dates noted above; AND UPON hearing counsel for the Real Estate Council of Alberta; AND UPON hearing Marc Wolf; AND UPON hearing the witnesses and evidence presented at the Hearing;

THE HEARING PANEL HEREBY FINDS AND ORDERS AS FOLLOWS:

1. BACKGROUND FACTS

This matter involves allegations of conduct deserving of sanction arising out of multiple real estate transactions between 1997 and 2000 in relation to eleven separate residential properties in Calgary. The details of the various transactions and properties are far too cumbersome to set out here.

Marc Wolf was involved in all transactions in question. In many cases he was both the agent (salesperson) and the owner, or a relative of the owner, of the property involved in the transaction.

Although each transaction is separate and distinct, a common pattern can be observed in relation to most of the properties:

- Mr. Wolf (or a party related to him) would purchase a residential property.
- Mr. Wolf (or the related party) would finance the purchase by high ratio mortgage. Often these were CMHC mortgages.
- The property would then be sold to a new purchaser (often within weeks of the initial purchase) for a price that was several thousand dollars (often tens of thousands of dollars) higher than the prior purchase price.
- The new purchaser(s) would have poor credit history or other problems that would prevent them from obtaining mortgage financing.
- To facilitate the transaction, the purchaser was required to pay several thousand dollars as a deposit. The high ratio mortgage would be assumed. The shortfall would be financed by a second mortgage from Mr. Wolf (or the related vendor).
- Mr. Wolf would act as agent (salesperson) for both the vendor and purchaser in the second transaction.
- The identity of the vendor would frequently be concealed, particularly where Mr. Wolf, himself, was the vendor.
- Generally, the purchasers were unsophisticated in real estate transactions. They placed a great deal of trust in Mr. Wolf as their agent, particularly in relation to ensuring that the purchase price was reasonable and that the transaction was fair.
- Generally, the property in question was the only one Mr. Wolf showed the purchasers. Frequently, they were told that there were no other suitable properties available.
- The sale price from Mr. Wolf (or his related vendor) to the new purchasers was artificially inflated. J.M., an expert appraiser, testified that in several instances, the true value of the property was tens of thousands of dollars lower than the amount paid to Mr. Wolf (or the related vendor) by his clients.
- Usually, there was little or no negotiation regarding the purchase price because Mr. Wolf would advise his clients that he knew the vendor would not accept a lower price.
- Mr. Wolf would not disclose to his clients (the new purchasers) the previous sale price, even though in many cases the previous sale took place only several weeks earlier and for substantially less money.

- In virtually every case, Mr. Wolf arranged for his clients to use the same lawyer; L.A.
- The net result was that Mr. Wolf (or the related vendor) would profit from the transaction at the expense of, and unknown to, his purchaser clients.

Again, the above summary is intended only to describe a very general trend or pattern the Panel noticed in relation to the many transactions that were reviewed during the Hearing. Most of the transactions involved unique facts and much more detail than what is described above.

The numerous transactions are specifically described in paragraphs 1 through 97 of the 24 page Notice of Hearing dated December 4, 2001. For ease of reference, a copy of the complete Notice of Hearing is attached as Schedule 'A' to this Decision, and is referred to below as the Notice of Hearing.

FINDINGS OF THE HEARING PANEL

During the Hearing the Executive Director called numerous witnesses in relation to the matters set out in the Notice of Hearing. Mr. Wolf elected not to call any evidence in defence of the charges against him. The Panel concludes that, with the exception of the matters set out in paragraphs 22(f), 41(c), 50(c), 59(c) and (f), 76(a), (b) and (d), 84(b), and 93(b), all of which were withdrawn at the conclusion of the Hearing, the Executive Director has proven the *factual* allegations set out in paragraphs 1 through 97 of the Notice of Hearing.

The Panel also finds that Mr. Wolf structured the transactions and dealt with his clients in the manner described above for the purpose of financial gain for himself or for a related party, at the expense of his clients.

In the Notice of Hearing the Executive Director also charges that Mr. Wolf failed to cooperate with an Investigator of the Real Estate Council by providing inaccurate or misleading information to the investigator.

The factual allegations in relation to the failure to cooperate charge are contained in paragraphs 98 to 106 of the Notice of Hearing. Again, Mr. Wolf elected to call no evidence in defence of these charges. The Panel finds that the Executive Director has proven the *factual* allegations in these paragraphs.

At this point, it is appropriate to note that at the Hearing the Executive Director attempted to introduce a report from an expert handwriting analyst. The expert was unable to personally attend and give evidence. The Panel upheld Mr. Wolf's objection and refused to allow the report to be introduced into evidence. As a result, the Hearing Panel did not review or consider the report in making its findings.

CONDUCT DESERVING OF SANCTION

In light of the above, the Hearing Panel finds that Mr. Wolf is guilty of conduct deserving of sanction as follows:

1. Breach of Fiduciary Duties / failing to act in a clients' best interests. Examples of such conduct include;
 - Failing to disclose to clients his interest in property or his relationship to the vendor of property (see Notice of Hearing, paragraphs 12(a) and (c), 22(a) and 88(a) for a few examples of such conduct);
 - Failing to disclose to, or concealing from, his clients his involvement in a recent prior sale of the same property at a substantially lower price (see Notice of Hearing, paragraphs 12(i), 22(a) and 59(a) for a few examples of such conduct);
 - Providing false or misleading information to clients (see Notice of Hearing, paragraphs 59(b) and 84(a) and (d) for examples of such conduct);
 - Failing to follow lawful instructions of clients by refusing to show them other properties as requested (see Notice of Hearing, paragraph 12(m) for an example of such conduct);
 - Failing to recommend that clients obtain independent legal advice (see Notice of Hearing, paragraphs 22(c), 41(d) and 68(b) for a few examples of such conduct);
 - Failing to provide clients with copies of sale contracts and other documents (see Notice of Hearing, paragraphs 12(l) and 41(f) for a few examples of such conduct);
 - Using confidential client information for personal benefit (see Notice of Hearing, paragraph 68(e) for an example of such conduct);
 - Obtaining money from a client under false pretenses (see Notice of Hearing, paragraphs 84(c) and (d) for an example of such conduct).
2. Creating False or Misleading Documents. Examples of such conduct include;
 - Using a document with forged signatures (see Notice of Hearing, paragraph 59(h) and (i) for an example of such conduct);
 - Indicating in purchase contracts that he was "related" to the seller, when in fact he was an owner of the property, and therefore was the seller (see Notice of Hearing, paragraph 12(d) for an example of such conduct);
 - Inserting false purchase prices into purchase documents (see Notice of Hearing, paragraph 68(c) for an example of such conduct).
3. Failing to comply with Dual Agency Disclosure requirements. Examples of such conduct include;
 - Failing to obtain consent from clients to act in a dual agency capacity (see Notice of Hearing, paragraphs 12(j) and 59(d) for examples of such conduct);

4. Trading in Real Estate outside the scope of the brokerage with which he was licensed. Examples of such conduct include:
 - See Notice of Hearing, paragraphs 32(a), 41(a) and 59(g) for examples of such conduct.
5. Failing to cooperate with an investigator of the Real Estate Council of Alberta. Examples of such conduct include:
 - Making false statements to an investigator (see Notice of Hearing, paragraphs 101, 104 and 106 for examples of such conduct);
 - Attempting to mislead an investigator (see Notice of Hearing, paragraphs 98 and 99 for an example of such conduct).

It must be pointed out that the above is not intended to be an exhaustive list of each act on Mr. Wolf's part that constitutes conduct deserving of sanction. Simply put, there are far too many instances of conduct deserving of sanction to list them all here. The above is merely intended to list the general categories of conduct that are deserving of sanction, with examples of each as proven in evidence at the Hearing.

Finally, it is relevant to note that, in addition to the above, the Hearing Panel found Mr. Wolf's conduct at the hearing to be overtly contemptuous of the Real Estate Council and its staff, the disciplinary process generally, some of the witnesses at the Hearing, and the Executive Director and particularly the Executive Director's counsel personally. Indeed, at one point during the Hearing Mr. Wolf encouraged the Panel to find him in contempt.

SANCTION

At the conclusion of the Hearing the Panel advised the parties that it would first make a determination as to whether there was conduct deserving of sanction before hearing any submissions as to the level or amount of sanction.

In light of the above findings, it is now necessary to consider submissions as to sanction. The Hearing will not be reconvened for this purpose. Submissions regarding sanction will be received in writing from the parties.

The Executive Director is hereby directed to supply to the Panel and to Mr. Wolf his written submissions on sanction, together with any supporting authorities, within one week of this Decision. Mr. Wolf will have one week from receipt of the Executive Director's submission within which to respond.

Mr. Wolf's written submission should be addressed to Ms. Monica Burman, Hearing Secretary at the office of the Real Estate Council of Alberta (Suite 340, 2424 - 4 St.,

S.W., Calgary, AB, T2S 2T4; Fax no: 403-228-3065). Ms. Burman will ensure that the submission is forwarded to the Panel.

The Panel will then issue a Decision regarding sanction.

DATED at the City of Edmonton, in the Province of Alberta, this 17 day of April,

HEARING PANEL of the
Real Estate Council of Alberta

"Barry Gogal"

Barry Gogal, Chairman

"Glen Chapman"

Glen Chapman

"David Hicks"

David Hicks

THE REAL ESTATE COUNCIL OF ALBERTA

IN THE MATTER OF Subsection 39(1)(b) and 41 of the *Real Estate Act*, S.A. 1995,
c.R-45

AND IN THE MATTER OF a Hearing regarding the conduct of Marc Wolf
Registered as an agent (salesperson) with Trans/Act Real Estate Corporation and
formerly registered as an agent (salesperson) with Impact Real Estate Group Ltd.
o/a Residential One Impact Real Estate Group

Hearing Panel Members:

**Barry Gogal, Chairman
Glen Chapman
David Hicks**

Appearances (by written submission):

Marc Wolf – on his own behalf

**Jocelyn Caldwell – on behalf of the
Executive Director of the Real Estate
Council of Alberta**

SANCTIONS DECISION

UPON this matter coming back before the Hearing Panel of the Real Estate Council of Alberta for the purposes of addressing Sanction; **AND UPON** the Hearing Panel having previously made a Decision dated April 17, 2002 in which it was held that certain conduct on the part of Marc Wolf is deserving of sanction; **AND UPON** the Hearing Panel in its April 17, 2002 Decision having expressly reserved jurisdiction regarding Sanction; **AND UPON** having read and considered the Written Submissions regarding Sanction submitted by both the Executive Director and Marc Wolf,

THE HEARING PANEL HEREBY ORDERS AS FOLLOWS:

1. Mr. Wolf's license to trade in real estate is hereby immediately revoked;
2. Mr. Wolf shall pay a fine in the amount of \$25,000;
3. Mr. Wolf shall pay costs of the Investigation and Hearing in the amount of \$49,816;

4. Mr. Wolf shall not be entitled to re-apply for a license under the *Real Estate Act* for a period of 7 years from the date of this decision;

DATED at the City of Edmonton, in the Province of Alberta, this 6 day of May, 2002.

HEARING PANEL of the
Real Estate Council of Alberta

"Barry Gogal"

Barry Gogal, Chairman

"Glen Chapman"

Glen Chapman

"David Hicks"

David Hicks