

00/21/02 100 12.00 FAX 400 220 0000 RECA 0004

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

**AND IN THE MATTER OF Chloe Cartwright, salesperson (agent) with  
Century 21 Bamber Realty Ltd.**

**INTRODUCTION**

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Chloe Cartwright ("Cartwright") registered with Century 21 Bamber Realty Ltd. (Bamber) is deserving of sanction and/or whether she breached the requirements of the *Real Estate Act* (hereafter "the Act") or the Rules prescribed pursuant thereto (hereafter "the Rules") or the Code of Conduct prescribed pursuant thereto (hereafter "the Code").
2. The Executive Director and Chloe Cartwright agree to resolve all matters against Chloe Cartwright on the terms and conditions set out herein.

**AGREED STATEMENT OF FACTS**

3. Cartwright has been registered as an agent with Bamber since November 1996.
4. On January 21, 2000, Cartwright had a judgment rendered against her in relation to a trade in real estate.
5. Cartwright did not immediately notify the Executive Director, in writing, when the judgement was rendered against her in relation to a trade in real estate.
6. The Executive Director became aware of the judgement when an application was made against the assurance fund. The claim was not paid by the assurance fund.
7. The judgement indicated Cartwright was acting on behalf of a seller on a property. The possession/completion date had to be amended and Cartwright took on the responsibility of amending the possession/completion date. Cartwright misled the purchaser of the property to believe that she had successfully obtained an extension of the possession/completion date on the real estate purchase contract.
8. The extension had been agreed to by the seller but the amendment form had not been signed by the seller. On the day of possession/completion Cartwright attempted to get the extension form signed. The sellers were not willing to sign the extension date amendment form until they received an additional deposit on the property.
9. Cartwright acknowledged to an Investigator of the Real Estate Council of Alberta that she did not obtain a written agreement of the extension of the possession/completion date until the day of possession.

10. On the day of possession the seller would not sign an extension until they received an additional \$3,000.00. Cartwright advised the Investigator that the reason she did not obtain the written extension agreement was that she was being "lazy".
11. As the purchasers could not come up with the extra \$3,000.00, Cartwright lent the purchasers \$1,500.00. The transaction did not complete and the purchaser lost the full deposit.
10. The purchasers commenced a civil action against Cartwright. Cartwright countered sued the purchasers for the return of the \$1,500.00. The Court found that Cartwright did falsely represent to the purchasers that the extension agreement had been negotiated, concluded and signed by the sellers. The court went on to say that this representation, to the purchasers, put the purchasers in a disadvantage position when they found out on the day of closing that the sellers required an additional deposit before they would sign the extension. The purchasers were put to the last minute election of putting up an additional deposit or letting the property go and losing the deposit they had already made. The Court held the purchaser's were put into this position as a direct result of the deceit of Cartwright.
11. Cartwright's counterclaim failed and the purchasers were awarded \$1,500.00 and partial costs. Cartwright paid the judgement in the amount of \$1,500.00 plus partial costs.

### **CONCLUSION**

11. By reason of the matters described herein, Chole Cartwright's conduct is deserving of sanction in that she:
  - (a) Failed to disclosure to the Executive Director when a judgment was rendered against her in relation to a trade in real estate in breach of Rule 15 (3) of the Rules made pursuant to the *Real Estate Act*.
  - (b) Made representations or carried on conduct that was reckless or intentional by misleading the purchaser to believe that a successful extension on the property had been completed when in fact the extension agreement had not been signed and when Cartwright went to obtain the signatures of the sellers they would not sign the agreement until they received an additional deposit of \$3,000.00 in breach of section 4 of the Code made pursuant to the *Real Estate Act*.

### **SETTLEMENT TERMS**

12. In settlement of these issues, Chloe Cartwright's, agrees to pay to the Real Estate Council of Alberta a fine in the amount of \$3,500.00 and costs in the amount of \$1,000.00.
13. In settlement of these matters, Chloe Cartwright agrees as a condition on her license she will successfully complete the course *Ethical Practice in Real Estate*

before December 31, 2002. Chloe Cartwright will provide the Real Estate Council of Alberta with proof of her successful completion of the course *Ethical Practice in Real Estate* before January 15, 2003.

14. Chloe Cartwright acknowledges that she has been given an opportunity to seek the advice of legal counsel and acknowledges that she is agreeing to the terms of settlement on her own free will.
15. Chloe Cartwright is aware that a copy of the Consent Agreement will be placed on her file and may be reviewed and considered in any future disciplinary proceedings.
16. Chloe Cartwright is aware the Real Estate Council of Alberta may publish the contents of this Consent Agreement.
17. Chloe Cartwright hereby waives any rights she may have under the Act or otherwise to a review, hearing, appeal or other judicial proceeding involving the matter referred to herein.
18. These settlement terms are intended to resolve all matters described herein and, subject to the approval of the Hearing Panel, the Executive Director will take no further action under the Act or before the courts in this regard.

**IN WITNESS WHEREOF** the undersigned agree and accept the terms and conditions of this settlement this 22<sup>nd</sup> day of August, 2002.

Signed and delivered in the presence of )

"S.G." )

Witness to the signature of Chloe Cartwright )

"Chloe Cartwright"

Chloe Cartwright

The Executive Director recommends to the Hearing Panel the proposed terms of settlement based on the Agreed Statement of Facts.

Real Estate Council of Alberta

"A.K." )

Witness to the signature of Bob Myroniuk

Per: "Bob Myroniuk"

Bob Myroniuk, Executive Director

Recommendation Approved

✓

Recommendation Denied

**DATED** at the City of Calgary, in the Province of Alberta, this 23rd day  
of September, 2002.

Real Estate Council of Alberta

Per: "Graham Downey"

Hearing Panel Chair

# AFFIDAVIT OF EXECUTION

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

1. THAT I was personally present and did see Chloe Cartwright 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.
2. THAT the same was executed at the City of CALGARY, in the Province of Alberta, and that I am the subscribing witness thereto.
3. THAT I know the said party and he is in my belief of the full age of eighteen years.

SWORN BEFORE ME at the City  
 of Red Deer, in the Province of  
 Alberta this 22 day of  
August, 2002.

"S.G."  
 (signature of witness)

"G.B."  
 A Commission for Oaths in and  
 for the Province of Alberta