

IN THE MATTER OF The Real Estate Act S.A. 1996, c. R-4.5

**AND IN THE MATTER OF John Gruber, salesperson registered with 569429
Alberta Inc. o/a Re/Max Classic Realty**

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether John Gruber's conduct is deserving of sanction and/or whether he breached the requirements of the Real Estate Act (hereinafter "The Act") or the Rules prescribed pursuant to the Act.
2. The Executive Director and John Gruber have agreed to resolve the allegations against John Gruber on the terms and conditions set out below.

AGREED STATEMENT OF FACTS

3. John Gruber has been registered as a real estate salesperson with 569429 Alberta Inc. o/a Re/Max Classic Realty since November 22, 1993. He is currently still registered with the same agency.
4. In 1994, John Gruber obtained a listing on Unit 52 Coachway Garden S.W. Calgary, Alberta. The unit did not sell and John Gruber offered to find a tenant to rent the premises. In November, 1995, John Gruber's wife, under her maiden name, leased the unit for a six month period. John Gruber did not disclose that the tenant was his wife. John Gruber gave advice to the owner regarding the appropriate amount of rent and the owner acted upon that advice.
5. John Gruber accepted a property management fee through his company, Kermar Management Ltd. which was not licensed to trade in real estate.
6. In June, 1996, John Gruber moved into the unit with his wife and failed to disclose to the owner that he had done so. John Gruber was requested to vacate the unit when the owner became aware that he was residing in the unit.
7. Trading in real estate in a name other than the name in which John Gruber was authorized to do so is contrary to section 25 of the Rules and Regulations of the Real Estate Act. John Gruber's failure to disclose to the owner his relationship with the tenant and his subsequent occupancy of the unit is a breach of his fiduciary duties and is conduct deserving of sanction.

SETTLEMENT TERMS

8. In settlement of these issues, John Gruber has agreed to pay a fine in the amount of \$600.00 to the Real Estate Council of Alberta.
9. John Gruber has agreed to pay the costs in the amount of \$250.00 to the Real Estate Council of Alberta.
10. John Gruber is aware that a copy of this Consent Agreement will be placed in his file and may be reviewed and considered in any future disciplinary proceedings.
11. John Gruber is aware that the contents of this Consent Agreement may be published by the Real Estate Council of Alberta.
12. John Gruber acknowledges that he has been given an opportunity to seek the advice of legal counsel and acknowledges that he is agreeing to the terms of the settlement on his own free will.
13. John Gruber hereby waives any rights he may have under the Act or otherwise to a hearing, review, judicial review or appeal of the matter referred to herein.
14. 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 steps including the initiation of any proceedings before the Real Estate Council of Alberta or the courts in this regard.

IN WITNESS WHEREOF the undersigned agrees and accepts the terms and conditions of this settlement this 10 day of November, 1998.

Signed and delivered
in the presence of



Witness to the signature
of John Gruber

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JOHN GRUBER

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

P. Jean Plante
 Witness to the signature
 of Bob Myroniuk

Real Estate Council of Alberta

Per: *B. Myroniuk*
 Bob Myroniuk
 Executive Director

Recommendation Approved
 Recommendation Denied

✓

DATED at the City of Calgary, in the Province of Alberta this 26 day of
November, 1998.

Real Estate Council of Alberta

Per: *[Signature]*
 Hearing Panel Chairperson

AFFIDAVIT OF EXECUTION

CANADA

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I, Emi Adachi

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(name of witness),

PROVINCE OF ALBERTA

)

of the City of Calgary in the Province of Alberta

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TO WIT:

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MAKE OATH AND SAY:

1. THAT I was personally present and did see **JOHN GRUBER** 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 Calgary in the Province of
Alberta this 10 day of
November, 1998.

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Charlene Anderson
A Commissioner for Oaths in and
for the Province of Alberta

Charlene Anderson
Barrister & Solicitor

Emi Adachi

(signature of witness)