

IN THE MATTER OF THE REAL ESTATE ACT S.A. 1996 c. R. – 4.5**AND IN THE MATTER OF NICHOLAS LIMA, Salesperson registered with BGB Realty Inc. o/a Re/Max Realty Professionals****INTRODUCTION**

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Nicholas Lima, a salesperson registered with BGB Realty Inc. o/a Re/Max Realty Professionals is deserving of sanction and/or whether he otherwise breached the requirements of the Real Estate Act (the "Act") or the Rules prescribed pursuant to the Act.
2. The Executive Director and Nicholas Lima have agreed to resolve the allegations against him on the terms and conditions set out below.

AGREED STATEMENT OF FACTS

3. Nicholas Lima has been registered as a salesperson with BGB Realty Inc. o/a Re/Max Realty Professional since December 31, 1993. He is currently still registered with the same agency
4. On March 3, 1997, Nicholas Lima presented a conditional offer on behalf of his clients, the Purchasers, to the Vendors. The Vendors accepted the offer and all conditions were to be waived on March 7, 1997.
5. On or about March 6, 1997, Nicholas Lima was advised by his clients, the Purchasers, that it was unlikely that they would be in a position to waive a condition on March 7, 1997. Nicholas Lima had other potential Purchasers for the property and contacted the Vendors' agent to arrange an appointment for a viewing.
6. The Vendors' agent assumed the appointment related to the appraisers for the first potential Purchasers and agreed to the appointment. Nicholas Lima was aware of this misunderstanding but given the timing of the viewing, did not correct it.
7. Upon arrival for the appointment, Nicholas Lima discovered that the Vendors were also present. The Vendors assumed the potential Purchasers were the appraisers and Nicholas Lima did not correct the misunderstanding. Nicholas Lima then left his clients alone at the property with the Vendors to complete the viewing.
8. By reason of the matters described herein, Nicholas Lima's conduct is deserving of sanction in that his failure to clarify the nature of the appointment led to a

misrepresentation to the Vendor's agent and the Vendors that Nicholas Lima's clients were appraisers when in fact they were potential Purchasers.

SETTLEMENT TERMS

9. In settlement of these terms, Nicholas Lima agrees to a fine in the amount of \$500 payable immediately to the Real Estate Council of Alberta.
10. Nicholas Lima agrees to successfully complete the "Real Estate Law" course by no later than September 30, 1998.
11. Costs of this matter are in the amount of \$200 payable immediately to the Real Estate Council of Alberta.
12. Nicholas Lima 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 settlement of his own free will.
13. Nicholas Lima is aware that a copy of the Consent Agreement will be placed on his file and may be reviewed and considered in any future disciplinary proceedings.
14. Nicholas Lima is aware the contents of this Consent Agreement may be published by the Real Estate Council of Alberta.
15. Nicholas Lima hereby waive any rights he may have under the Act or otherwise to a review, hearing, appeal or other judicial proceeding involving the matter referred to herein.
16. 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 27 day of MAY, 1998.

Signed and delivered
in the presence of

"R.B."

Witness to the signature
of Nicholas Lima

"Nicholas Lima"

NICHOLAS LIMA

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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

Date June 9, 1998

Per: "Bob Myroniuk"
Bob Myroniuk
Executive Director

Recommendation Approved
Recommendation Denied

✓

DATED at the City of Calgary, in the Province of Alberta this 16 day of
JUNE, 1998.

Real Estate Council of Alberta

Per: "Barry Gogal"
Hearing Panel Chairperson

AFFIDAVIT OF EXECUTION

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

1. THAT I was personally present and did see **NICHOLAS LIMA** 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 27 day of)
MAY, 1998.)

"P.G.")
 A Commissioner for Oaths in and)
 for the Province of Alberta)

"R.B."

(signature of witness)