

IN THE MATTER OF the Real Estate Act S.A. 1995, c.R-4.5

AND IN THE MATTER OF Audrey Bannister and Bannister Realty Ltd.

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether Audrey Bannister (hereinafter "Ms. Bannister") and Bannister Realty Ltd. traded in real estate while unauthorized in contravention of s. 17 of the Real Estate Act.
2. The Executive Director, Ms. Bannister and Bannister Realty Ltd. have agreed to resolve the allegations on the terms and conditions set out below.

AGREED STATEMENT OF FACTS

3. Ms. Bannister has been an industry member in different capacities including as a salesperson and designated representative during the period of November 29, 1983 to September 30, 1997 (with short periods of inactivity).
4. From October 1, 1991 to September 30, 1995, Ms. Bannister was the designated representative for Action Ltd. o/a Realty World – Action in Wetaskiwin. During the period June 3, 1996 to September 30, 1997, Ms. Bannister worked as a real estate salesperson registered with Realty World East Country Realty Ltd. in Wetaskiwin. The office closed on September 22, 1997.

Unauthorized Trading in Real Estate

5. From late September to early November, 1997, Ms. Bannister had several communications with the licensing unit of the Real Estate Council of Alberta in an attempt to obtain licensing for her proposed agency, Bannister Realty Ltd. Ms. Bannister did not meet the educational requirements to become the designated representative for this proposed agency. Although she submitted fees for educational materials, supplied transfer forms for two salespeople, B.B. and R.A., whom she wished to have registered with the agency, Bannister Realty Ltd. was not licensed and no registrations of salespeople were processed. Ms. Bannister was advised that the agency license and the proposed

registrations would not be processed. Therefore she was advised that no trades in real estate could take place.

6. On November 10, 1997, the Real Estate Council of Alberta determined that Bannister Realty Ltd. was open for business and was trading in real estate. Ms. Bannister was operating the business. It had office signage in place, local advertisements were being placed in newspapers and telephones were being answered in the name of Bannister Realty Ltd. Listings were being taken, transactions were being closed, an active trust account was open and commissions were being paid to Bannister Realty Ltd. and its salespeople.
7. During this unlicensed period Ms. Bannister directed a lawyer to pay commissions in the approximate amount of \$2,000 on a transaction processed through Realty World East Country Realty Ltd. directly to her instead of to Realty World East Country Realty Ltd. As well, she received commissions in the amount of \$6,366.50 on a trade commenced and concluded while she was unauthorized to trade in real estate with an unlicensed agent, Bannister Realty Ltd.
8. On November 10, 1997, Audrey Bannister and the unregistered salespeople were advised to immediately cease trading in real estate. On November 17, 1997, Audrey Bannister acknowledged in writing her receipt of written correspondence from the Real Estate Council of Alberta confirming her unauthorized trading in real estate and the Real Estate Council of Alberta's request for her to cease such trading. In or around this same time, trust money being held in the amount of \$1701 was transferred to a lawyers trust account.
9. On December 4, 1997, Bannister Realty Ltd. was licensed to trade in real estate with A.O. as the designated representative. B.B. and R.A. were registered as salespeople. No authorization was issued to Audrey Bannister.

Holding out as Authorized to Trade in Real Estate

10. In or around December, 1997, in a transaction involving a vendor from Lethbridge, Ms. Bannister held herself out as an authorized real estate salesperson or agent and negotiated a listing. Thereafter, without the consent of the vendor Ms. Bannister's son B.B. assumed responsibility as the listing salesperson on the transaction.

Misrepresentation in Educational Requirement Extension

11. In or around early December, 1997, the Real Estate Council of Alberta received a request for an extension to fulfill the requirements of A.O.'s mandatory continuing education credits. On the face of the document it appeared to have been received from A.O. personally. However, in or around early March, 1998, it was determined that A.O. did not provide this document and was unaware that it had been submitted to the

Real Estate Council of Alberta. Audrey Bannister was responsible for submitting the document to the Real Estate Council of Alberta.

Designated Representative Resignation

12. On March 9, 1998, the Real Estate Council of Alberta was informed by A.O. that she had resigned as the designated representative of Bannister Realty Ltd. As a result of the concerns with the operation of the agency and the lack of authorized management, the license of Bannister Realty Ltd. was suspended by the Real Estate Council of Alberta on March 20, 1998.

Conclusion

13. Audrey Bannister and Bannister Realty Ltd. traded in real estate and held themselves out as authorized to trade in real estate in contravention of s. 17 of the Real Estate Act. Ms. Bannister provided a misleading request for an education requirement timeline extension to the Real Estate Council of Alberta.
14. In settlement of these issues, Audrey Bannister and Bannister Realty Ltd. agree to the following:
 - i) payment of a fine in the amount of \$6,000 and payment of costs in the amount of \$1,000 to RECA (\$7,000 total) which fine and costs are due and payable by way of post dated cheques in the amount of \$350 per month. Payments are to commence immediately after the \$9,000 fine and costs have been paid to RECA;
 - ii) not to apply to become authorized to trade in real estate any earlier than April 1, 2000 and at the time of such application all fines and costs must have been paid in full. Ms. Bannister agrees not to trade in real estate as defined by the Real Estate Act until she is legally authorized by RECA; and
 - iii) within one year prior to applying for an authorization, Ms. Bannister must have enrolled and successfully completed the Real Estate 1000 course or if this course no longer exists at the time of required successful completion, a similar course designated by the Executive Director.
15. The parties agree that this matter will not be the subject of prosecution proceedings under the Real Estate Act.
16. Ms. Bannister and Bannister Realty Ltd. acknowledge that they have been given an opportunity to seek the advice of legal counsel and acknowledge that they are agreeing to the terms of settlement of their own free will.

17. Ms. Bannister and Bannister Realty Ltd. are aware the contents of this agreement will be placed on their files and may be reviewed and considered in any future disciplinary or prosecutorial proceedings.
18. Ms. Bannister and Bannister Realty Ltd. are aware the contents of this agreement may be published by the Real Estate Council of Alberta.
19. Ms. Bannister and Bannister Realty Ltd. hereby waive any rights they may have under the Act or otherwise to any review, 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 Executive Director the Real Estate Council of Alberta, 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 agree and accept the terms and conditions of this settlement this 22 day of June, 1998.

Signed and Delivered
in the presence of:

"S.C."
Witness

"Audrey Bannister"
Audrey Bannister
Director
Bannister Realty Ltd.

Signed and Delivered
in the presence of:

"S.C."
Witness

"Audrey Bannister"
Audrey Bannister

Signed and Delivered
in the presence of:

"J.P."
Witness

"Bob Myroniuk"
Bob Myroniuk
Executive Director
Real Estate Council of Alberta

AFFIDAVIT OF EXECUTION

CANADA

PROVINCE OF ALBERTA

TO WIT:

)
)
)
)
)

I, S.C.

(name of witness),

of the City of Calgary in the Province of Alberta

MAKE OATH AND SAY:

1. THAT I was personally present and did see **AUDREY BANNISTER** 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 she 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 22nd day of
June, 1998.

"E.A."

A Commissioner for Oaths in and
for the Province of Alberta

)
)
)
)
)
)
)
)
)
)

"S.C."

(signature of witness)