

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

**AND IN THE MATTER OF MIGHTY PEACE REALTY LTD. o/a REALTY WORLD
MIGHTY PEACE REALTY, WILLIAM LEN BASNETT, designated representative,
DIANE SCHWENDEMAN, branch office designated representative, and KARL
SCHWENDEMAN, salesperson**

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta ("the Executive Director") conducted an investigation into whether the conduct of Mighty Peace Realty Ltd. o/a Realty World Mighty Peace Realty, William Len Basnett, Diane Schwendeman and Karl Schwendeman is deserving of sanction and/or whether they otherwise breached the requirements of the Real Estate Act or the Rules prescribed pursuant to the Act.
2. The Executive Director, Mighty Peace Realty Ltd. o/a Realty World Mighty Peace Realty, William Len Basnett, Diane Schwendeman and Karl Schwendeman have agreed to resolve the allegations against them on the terms and conditions set out below.

AGREED STATEMENT OF FACTS

3. William Len Basnett has been the designated representative of Mighty Peace Realty Ltd. o/a Realty World Mighty Peace Realty (hereinafter "Mighty Peace Realty Ltd.") located in Fairview, Alberta since March 1, 1988.
4. Diane Schwendeman has been registered as the branch office designated representative of Mighty Peace Realty Ltd. located in Grimshaw, Alberta since October 1, 1993.
5. Karl Schwendeman has been registered as a salesperson with the Mighty Peace Realty Ltd. Grimshaw branch since February 24, 1986. He is currently registered with the same agency.
6. Karl Schwendeman represented the Vendors in a real estate transaction involving a vacant property. He also represented the Purchaser who bought the vacant property.
7. On or about February 14, 1996, Karl Schwendeman presented an offer to his Vendor clients from his Purchaser client dated February 14, 1996 with a possession date of April 4, 1996. The Vendors accepted the offer on February 15, 1996.

8. Karl Schwendeman regularly checked the Vendors' property to ensure there were no problems. Subsequent to the acceptance of the offer however, the Purchaser requested the keys of the property so that he could now check the premises. Karl Schwendeman personally knew the Purchaser and felt he could trust him. He therefore provided the Purchaser with the keys. Karl Schwendeman did not inform his Vendor clients or his branch office designated representative, Diane Schwendeman, that he had given the vacant property keys to the Purchaser.
9. Prior to the transaction closing, Karl Schwendeman discovered that the Purchaser had begun renovations to the property and moved his possessions on the property without the knowledge or consent of Karl Schwendeman, Diane Schwendeman or the Vendors.
10. Upon discovering the actions of the Purchaser, Karl Schwendeman immediately instructed the Purchaser to return the keys to him.
11. William Len Basnett acknowledges that Mighty Peace Realty Ltd. provides a service to clients to check vacant properties listed with the agency. However, he does not become involved in the particulars of these arrangements and leaves the details with the real estate salesperson handling the transaction. Mighty Peace Realty Ltd. has no formal policies addressing the issue of vacant properties.
12. By reason of the matters herein, William Len Basnett's conduct is deserving of sanction in that he failed to provide adequate monitoring and supervision of the branch office and employees.
13. By reason of the matters herein, Diane Schwendeman's conduct is deserving of sanction in that she did not supervise the actions of Karl Schwendeman, a salesperson registered with her branch office.
14. By reason of the matters herein, Karl Schwendeman's conduct is deserving of sanction in that:
 - a) he provided a key to the Purchaser prior to the possession date without obtaining the consent of his Vendor clients; and
 - b) he failed to act in the best interests of his Vendor clients and as such, breached his fiduciary duties as a real estate salesperson to the Vendors.
15. Karl Schwendeman invested approximately \$900 of his personal funds toward the upkeep of the vacant property.

SETTLEMENT TERMS

16. In settlement of these matters, Mighty Peace Realty Ltd. o/a Realty World Mighty Peace Realty, William Len Basnett, Diane Schwendeman and Karl Schwendeman agree to each receiving a written Letter of Reprimand.

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"A.N."Witness to the signature
of Diane Schwendeman"Diane Schwendeman"**DIANE SCHWENDEMAN**Branch office designated representative
Mighty Peace Realty Ltd.
o/a Realty World Mighty Peace Realty"A.N."Witness to the signature
of Karl Schwendeman"Karl Schwendeman"**KARL SCHWENDEMAN**

Salesperson

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"J.P."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 6 day of **AUGUST**,
1998.

Real Estate Council of Alberta

Per:

"John Fraser"

Hearing Panel Chairperson

AFFIDAVIT OF EXECUTION

CANADA) I, A.N.
) (name of witness),
PROVINCE OF ALBERTA) of the Town of Fairview in the Province of Alberta
)
TO WIT:) MAKE OATH AND SAY:

1. THAT I was personally present and did see **WILLIAM LEN BASNETT** 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 Town of Fairview, 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 Town)
of Fairview in the Province of)
Alberta this 21 day of)
July, 1998.)

"A.N."
(signature of witness)

"B.K."
A Commissioner for Oaths in and
for the Province of Alberta)

AFFIDAVIT OF EXECUTION

CANADA) I, A.N. of
) (name of witness),
 PROVINCE OF ALBERTA) the Town of Grimshaw in the Province of Alberta
)
 TO WIT:) MAKE OATH AND SAY:

4. THAT I was personally present and did see **DIANE SCHWENDEMAN** 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.
5. THAT the same was executed at the Town of Grimshaw, in the Province of Alberta, and that I am the subscribing witness thereto.
6. THAT I know the said party and she is in my belief of the full age of eighteen years.

SWORN BEFORE ME at the Town)
 of Grimshaw in the Province of)
 Alberta this 21 day of)
July, 1998.)

"A.N."
 (signature of witness)

"B.K."
 A Commissioner for Oaths in and)
 for the Province of Alberta)

AFFIDAVIT OF EXECUTION

CANADA) I, A.N. of
) (name of witness),
 PROVINCE OF ALBERTA) the Town of Grimshaw in the Province of Alberta
)
 TO WIT:) MAKE OATH AND SAY:

7. THAT I was personally present and did see **KARL SCHWENDEMAN** 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.
8. THAT the same was executed at the Town of Grimshaw, in the Province of Alberta, and that I am the subscribing witness thereto.
9. THAT I know the said party and he is in my belief of the full age of eighteen years.

SWORN BEFORE ME at the Town)
 of Grimshaw in the Province of)
 Alberta this 21 day of)
July, 1998.)

"A.N."
 (signature of witness)

"B.K."
 A Commissioner for Oaths and
 for the Province of Alberta)