

**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**

- 1.1 The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Audrey Bannister (hereinafter "Ms. Bannister") is deserving of sanction.
- 1.2 The Executive Director and Ms. Bannister have agreed to resolve the allegations on the terms and conditions set out below.

**2. AGREED STATEMENT OF FACTS**

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

**Transaction #1**

- 2.3 In 1995, a salesperson registered with Realty World – Action represented a purchaser in a transaction who placed deposits in trust with the agency. One deposit was in the amount of \$5,000 deposited into trust on March 9, 1995 and the other was in the amount of \$20,000 deposited into trust on March 22, 1995. The transaction was scheduled to close in late June, 1995.
- 2.4 On June 15, 1995, the balance in the trust account had been reduced to \$3,311.75. On June 15, 1995, a cheque was written to the vendors on the account in the amount of \$18,580.
- 2.5 On June 16, 1995 the salesperson representing the purchaser entered into an agreement with Ms. Bannister's father wherein a property owned by the father's company was mortgaged to the salesperson for \$30,000. The salesperson agreed to accept the mortgage on the understanding that the \$30,000 provided in exchange would be available to fund the trust account shortage in order that his purchasers would not be disadvantaged.

- 2.6 On June 16, 1995, a deposit in the amount of \$31,400, including a cheque in the amount of \$30,000 from Realty World – Action, was made to the trust account at Realty World – Action. This deposit raised the trust balance to \$34,711.75.
- 2.7 On June 20, 1995, the cheque to the vendors in the amount of \$18,580 cleared the account.
- 2.8 On February 12, 1997, Ms Bannister executed a late agency closing audit document indicating that there were no trust shortages during the fiscal year ending October 31, 1995. This document was provided to the Real Estate Council of Alberta on February 19, 1997.

#### **Transaction #2**

- 2.9 In 1995, Ms. Bannister was involved in a transaction in which she acted as a representative for her father's company in purchasing a property from a vendor. She did not ensure that her role in the transaction was clearly understood by the vendor who was not advised whether Ms. Bannister was acting as a real estate salesperson for her father or his personal representative in the transaction. Ms. Bannister did not disclose in writing to the vendor her interest in the transaction.

#### **Transaction #3**

- 2.10 During the period June 3, 1996 to September 30, 1997, Ms. Bannister worked as a real estate salesperson for Realty World East Country Realty Ltd. in Wetaskiwin. The office closed on September 22, 1997.
- 2.11 In or around early October, 1997, Ms. Bannister directed a lawyer that commissions in the approximate amount of \$2,000 on a transaction which was the responsibility of Realty World East Country Realty Ltd. be paid directly to her instead of to her previous agent.

#### **Bannister Realty Ltd.**

- 2.12 On December 4, 1997, Bannister Realty Ltd., a company owned by Ms. Bannister, was licensed by the Real Estate Council of Alberta. Ms. Bannister was not authorized to trade in real estate.
- 2.13 On March 9, 1998, the Real Estate Council of Alberta was informed by Alisa Olson, the designated representative, 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.

## **Conduct Deserving of Sanction**

2.14 The above described conduct is conduct deserving of sanction in that:

- i) Ms. Bannister breached s. 23(2)(d) of the Real Estate Agent's Licensing Act by disbursing trust funds in a manner not in accordance with the terms of trust;
- ii) Ms. Bannister misappropriated her client's trust funds;
- iii) Ms. Bannister provided a false and misleading closing audit to RECA;
- iv) Ms. Bannister caused confusion in a trade in that she did not clarify her role in a transaction for the vendor;
- v) Ms. Bannister breached s.30(3) of the Real Estate Agent's Licensing Act by not properly disclosing in writing to a vendor any interest she had in the transaction; and
- vi) Ms. Bannister misrepresented that she was entitled to directly receive commissions which ought to have been directed to Realty World East Country Realty Ltd.

## **3. SETTLEMENT TERMS**

3.1 In settlement of these issues, Ms. Bannister agrees to the following:

- i) Payment of a fine in the amount of \$8,000 and payment of costs in the amount of \$1,000 to RECA (\$9,000 total) which fine and costs are due and payable by way of post dated cheques in the amount of \$350 per month. Payments in the amount of \$350 are to commence on July 1, 1998 and continue thereafter each and every month until the fine and costs has been paid in full.
- ii) Ms. Bannister agrees that the authorization of Bannister Realty Ltd. will be cancelled as of the date of ratification of this Consent Agreement. Ms. Bannister agrees not to apply for an authorization under the Real Estate Act any earlier than April 1, 2000 and at the time such application is received 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.
- 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 must be completed;

3.2 Ms. Bannister acknowledges that she has been advised that the fine and costs become a debt due to RECA and may be recovered by RECA in an action in debt pursuant to Section 43(3) of the Real Estate Act.

- 3.3 Ms. Bannister acknowledges she is aware that the contents of this agreement may be published by RECA.
- 3.4 Ms. Bannister is aware the contents of this agreement will be placed on her file and may be reviewed and considered in any future disciplinary proceedings.
- 3.5 Ms. Bannister acknowledges that she has been given the opportunity to seek the advice of legal counsel and acknowledges that she is agreeing to this agreement voluntarily of her own free will.
- 3.6 Ms. Bannister hereby waives any rights that she may have under the Real Estate Act or otherwise to a hearing, review, judicial review or appeal of the matter referred to herein.
- 3.7 These settlement terms are intended to resolve the matters described herein and subject to the approval of the Hearing Panel as this agreement relates to the conduct of Ms. Bannister, the Executive Director will take no further steps under the Real Estate Act including the initiation of any proceedings before the Real Estate Council or the Courts.

**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~~

**Executive Director Recommendation**

"J.P."

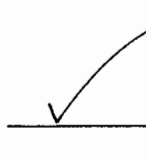
~~Date~~ Witness

"Bob Myroniuk"

~~Bob Myroniuk~~  
Executive Director

**Hearing Panel Decision**

Recommendation Approved  
Recommendation Denied



Dated at CANADIAN, Alberta  
this 29 day of JUNE, 1998

"John Fraser"

~~Hearing Panel~~ Chairman  
Real Estate Council of Alberta

## AFFIDAVIT OF EXECUTION

CANADA ) I, S.C.  
 ) (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 **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. )

"S.A."  
(signature of witness)

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