

IN THE MATTER OF THE REAL ESTATE ACT, S.A. 1996, c. R – 4.5

AND IN THE MATTER OF NAM DONG, then registered as a real estate salesperson with Re/Max Real Estate Calgary South Ltd. o/a Re/Max First

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether Nam Dong, salesperson for Re/Max Real Estate Calgary South Ltd. o/a Re/Max First, conduct is deserving of sanction and/or whether he otherwise breached the requirements of the Real Estate Act or the Rules prescribed to the Act.
2. The Executive Director and Nam Dong have agreed to resolve the allegations against Nam Dong on the terms and conditions set out below.

AGREED STATEMENT OF FACTS

3. Nam Dong was registered as a real estate salesperson with Re/Max Real Estate Calgary South Ltd. o/a Re/Max First (hereinafter "Re/Max First") from October 1, 1994 until March 31, 1997. Re/Max First previously operated under the trade name of Re/Max South during the period of Nam Dong's employment from October 1, 1994 to August 1, 1996.
4. On May 11, 1996, T.C. and P.L. (the "Vendors") listed their property with Re/Max First and Nam Dong was the real estate salesperson.
5. On July 22, 1996, Nam Dong on his own behalf and the Vendors entered into a Purchase Contract, in which Nam Dong agreed to purchase the Vendor's property. The listing contract was not cancelled and no sales commission was paid. Re/Max First was not notified of the purchase.
6. On August 2, 1996, C.H. and S.N. offered to purchase the said property from Nam Dong. A \$100 deposit was provided to Nam Dong. Although these monies were to be deposited into the Re/Max trust account, they were not. When the transaction did not proceed, Nam Dong returned the monies to the Purchasers.
7. By reason of the matters described herein, Nam Dong's conduct is deserving of sanction under Part 3 of the Real Estate Act in that:
 - a) Nam Dong failed to protect the Vendors from liability under Re/Max First's listing agreement in which commissions were payable;

- b) Nam Dong failed to notify Re/Max First of the sale of the said property contrary to section 25(9) of the Real Estate Act; and
- c) Nam Dong failed to place C.H. _____ and S.N.'s _____ deposit into trust contrary to section 25(1)(b) of the Real Estate Act.

SETTLEMENT TERMS

8. Nam Dong agrees that his conduct is deserving of sanction.
9. Nam Dong agrees to immediately pay a fine in the amount of \$1,000 to the Real Estate Council of Alberta.
10. Costs of this matter in the amount of \$200 are payable immediately to the Real Estate Council of Alberta.
11. Nam Dong 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.
12. Nam Dong 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.
13. Nam Dong is aware the contents of this Consent Agreement may be published by the Real Estate Council of Alberta.
14. Nam Dong hereby waives 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.
15. 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 17 day of JUNE, 1998.

Signed and delivered _____)
in the presence of _____)

"E.A." _____)
Witness to the signature _____)
of Nam Dong _____)

"Nam Dong" _____
NAM DÔNG

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 29 day of **JUNE**, 1998.

Real Estate Council of Alberta

Per: "John Fraser"

 Hearing Panel Chairperson

AFFIDAVIT OF EXECUTION

CANADA)	I, <u>E.A.</u>
)	(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 **NAM DONG** 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 17 day of
June, 1998.

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

"E.A."
 (signature of witness)