

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

AND IN THE MATTER OF Royal Lepage Commercial Inc. and Keith Neilsen

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation during August, 1996 into whether Royal Lepage Commercial Inc. and Mr. Neilsen's conduct is deserving of sanction and/or whether they otherwise breached the requirements of the Act or the Rules prescribed pursuant to the Act.

2. The Executive Director, Royal Lepage Commercial Inc. and Mr. Neilsen have agreed to resolve the allegations against Royal Lepage Commercial Inc. and Mr. Neilsen on the terms and conditions set out below.

AGREED STATEMENT OF FACTS

3. Mr. Neilsen is a licensed real estate salesperson pursuant to section 3(1) of the Rules. He has been employed by Royal Lepage Commercial Inc. since June 28, 1996.

4. A.B. is the designated representative for Royal Lepage Commercial Inc. which has been licensed since May 13, 1996.

5. In or about July, 1996, Mr. Neilsen referred an unlicensed property manager, A.M. to Mr. Neilsen and Royal Lepage Commercial Inc.'s client, J.W., to provide property management services to her.

7. At the time of the referral, Mr. Neilsen was either aware of the fact that A.M. was not licensed or took no action to determine whether A.M. was licensed.

8. J.W., Mr. Neilsen and Royal Lepage Commercial Inc.'s client, suffered no damages as a result of her dealings with the unlicensed property manager.

9. On September 25, 1996, shortly after A.B. became aware of the referral of an unlicensed practitioner, he distributed a memorandum to his staff in Calgary and Edmonton explaining the circumstances of the complaint and advising staff that referrals of unlicensed real estate practitioners are not to occur and that such conduct is interpreted as being conduct deserving of sanction by the Real Estate Council of Alberta.

10. Referring an unlicensed practitioner to a client is conduct deserving of sanction under Part 3 of the Act. This is so even though such activity is not specifically set out as being in breach of a specific section of the Act or Rules. Such a practice is not in the best interests of the public nor does it promote the integrity of the industry.

SETTLEMENT TERMS

11. In settlement of these issues, Royal LePage Commercial Inc. and Mr. Neilsen agree to accept a formal letter of reprimand from the Real Estate Council of Alberta.

12. Costs of the investigation and terms of settlement are waived.

13. Royal LePage Commercial Inc. and Mr. Neilsen 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.

14. Upon the approval of the Hearing Panel, Royal LePage Commercial Inc. and Mr. Neilsen hereby waive any rights they may have under the Act or otherwise to a hearing, review, judicial review or appeal of 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 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 16th day of October, 1996.

Signed and Delivered
in the presence of:

J.P.

Royal LePage Commercial Inc.
A.B.
Designated Representative

Signed and Delivered
in the presence of:

"J.P."

J.P.

"Keith Neilson"

Keith Neilsen

The Executive Director recommends to the Hearing Panel the proposed terms of settlement based on the Agreed Statement of Facts.

October 17, 1996
Date

"Bob Myroniuk"

Bob Myroniuk
Executive Director

Recommendation Approved ☒

Recommendation Denied ☐

Dated at Calgary, Alberta,
this 4 day of Dec, 1996

"Barry Gogal"

Hearing Panel Chairperson
Real Estate Council of Alberta

AFFIDAVIT OF EXECUTION

CANADA)
PROVINCE OF ALBERTA)
TO WIT:)

I, J.P. , of the City
of Calgary, in the Province of
Alberta, MAKE OATH AND SAY:

1. THAT I was personally present and did see A.B. 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 A.B. 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 16 day of)
October ~~September~~, 1996.)

"J.P."

J.P.

"W.M."

A COMMISSIONER FOR OATHS
IN AND FOR THE PROVINCE
OF ALBERTA


AFFIDAVIT OF EXECUTION

CANADA)
PROVINCE OF ALBERTA)
TO WIT:)

I, J.P. of the City
of Calgary, in the Province of
Alberta, MAKE OATH AND SAY:

1. THAT I was personally present and did see Keith Neilsen 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 Keith Neilsen 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 15 day of)
September, 1996.)



"W.M."

A COMMISSIONER FOR OATHS
IN AND FOR THE PROVINCE
OF ALBERTA

"J.P."

J.P.



November 25, 1997

BY COURIER

LETTER OF REPRIMAND

As a result of an investigation by the Real Estate Council of Alberta, you agreed that [(the "Industry Member")] , a salesperson employed by [("the Brokerage")], referred an unlicensed practitioner to a client. This is conduct deserving of sanction under Part 3 of the *Real Estate Act* as such a practice is not in the best interests of the public nor does it promote the integrity of the industry.

On December 4, 1996, the Hearing Panel found your conduct in this matter deserving of sanction and we are therefore issuing you this Letter of Reprimand.

Please be advised that future contravention of the *Act* may not be treated so lightly.

As a result of an oversight, this letter was not forwarded to you at the time of the hearing. We apologize for this delay.

Yours truly,

"Barry Gogal"

Barry Gogal, ~~Chair~~
Hearing Panel

cc Bob Myroniuk
Executive Director

Real Estate Council of Alberta

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