

## **THE REAL ESTATE COUNCIL OF ALBERTA**

**AND IN THE MATTER OF** a Hearing regarding the conduct of Alman Adel, former real estate associate registered with the Real Estate Council of Alberta as a real estate associate with Century 21 Central Realty Inc., Century 21 Terrace Real Estate Ltd., Signet Real Estate Ltd. o/a Signet Commercial and Esquire Realty Inc. o/a Esquire Management Group at all times material hereto

Hearing Panel Members:     Connie Leclair, Chair  
                                      Dennis Shandruk  
                                      Brian Klingspon

Appearing:                    Ms. Leela Ramaswamy, legal counsel on behalf of the  
                                      Executive Director  
                                      Mr. John Anderson, legal counsel on behalf of Alman Adel  
                                      Mr. Alman Adel

Witnesses:                    Ms. Myrtle Sharp  
                                      A.N.  
                                      Mr. Joseph Fernandez.  
                                      M.L.  
                                      M.M.  
                                      K.W.  
                                      Ms. Vi Pickering  
                                      Mr. Ron Lawson  
                                      N.T.  
                                      E.A.  
                                      A.A.

Hearing Date:                April 19 – 30; May 3, 6, 7, 10, 11, 13

## **DECISION OF A HEARING PANEL OF THE REAL ESTATE COUNCIL OF ALBERTA ON CONDUCT**

### **I)     INTRODUCTION**

The Real Estate Council of Alberta held a hearing into the conduct of Alman Adel while registered as a real estate associate with Century 21 Central Realty Inc., Century 21 Terrace Real Estate Ltd., Signet Real Estate Ltd. o/a Signet Commercial and Esquire Realty Inc. o/a Esquire Management Group. The Hearing Panel was composed of Connie Leclair (Chair), Dennis Shandruk and Brian Klingspon.

The Hearing took place in Calgary from April 19, 2010 to May 13<sup>th</sup>, 2010. In attendance at the Hearing was Leela Ramaswamy, legal counsel on behalf of the Executive Director of the Real Estate Council of Alberta, John Anderson, legal counsel on behalf of Alman Adel and Alman Adel, former real estate associate.

## II) ALLEGATIONS

Alman Adel was called before the Hearing Panel to answer to 23 allegations set out in the following Notice of Hearing:

### **Investigation File# 2097-06**

1. THAT between the dates of 2000 to 2002, you participated in fraudulent or unlawful activities in connection with real estate and/or mortgage transactions, contrary to s. 7(c) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006), made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
  - a) THAT in or around 2000 to 2001, you approached A.N. and advised him that you would pay him approximately \$4000 if he were to purchase a property in his name and obtain a mortgage on it. You also advised T.N. that he would not have to pay anything for his involvement in this transaction including the payment of down payments or deposits for the purchase of the property and that in the event that he did have to pay for anything in relation to his purchase of a property, you would pay him back.
  - b) THAT on or about April 5, 2001, the property located at 312 Georgian Village NW, Calgary, (hereinafter "the Georgian Village property") was listed for sale on MLS and you were the listing real estate associate acting on behalf of the seller. R.R.
  - c) THAT on or about April 23, 2001, you submitted an Offer to Purchase on behalf of A.N. and his wife Z.N. for the purchase of the Georgian Village property.
  - d) THAT on or about April 24, 2001, final acceptance was reached between R.R. and the N's.
  - e) THAT as per the Real Estate Purchase Contract, the N's were required to pay an initial deposit of \$2000. For payment of this deposit, on or about April 24, 2001, A.N. wrote a cheque payable to Century 21 Central Realty in the amount of \$2000.
  - f) THAT on or about April 26, 2001, you wrote a cheque to A.N. in the amount of \$2000.
  - g) THAT on or about April 23, 2001, Mr. and Z.N. (hereinafter "the N's") made an application for a mortgage in relation to the Georgian Village property through the Jencor Mortgage Corporation mortgage brokerage. The N's applied for a Canadian Mortgage Housing Corporation (hereinafter "CMHC") mortgage requiring a 5% down payment.
  - h) THAT on or about April 27, 2001, the Ns' mortgage application through Jencor Mortgage Corporation was approved for funding by Scotiabank Mortgage in the amount of \$109 404.38. The Mortgage Commitment set out that one of the conditions of the mortgage approval was owner occupancy.
  - i) THAT the N's never resided in the Georgian Village property.
  - j) THAT on or about May 1, 2001, you wrote a cheque to A.N. in the amount of \$4372.

- k) THAT on or about May 29, 2001, A.N. wrote a cheque to B.H. in the amount of \$4372. B.H. was the lawyer acting on behalf of R.R. and the N's in this real estate transaction.
  - l) THAT you arranged for a tenant to occupy the Georgian Village property and that the rent paid by the tenant was used to make the monthly mortgage payments.
- 2. THAT between the dates of 2000 and 2002, you failed to act in A.N.'s best interests, contrary to section 2(a) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
  - a) THAT you involved A.N. in mortgage fraud as set out by the facts referenced herein in paragraphs 1a) to 1l).
  - b) THAT before the N's purchased the Georgian Village property, title to this property had transferred to the seller, R.R. on or about March 30, 2001 for a value of \$94 000 and for consideration of cash and mortgage.
  - c) THAT you never advised the N's of the purchase price paid by R.R. for the Georgian Village property.
  - d) THAT after the N's purchased the Georgian Village property, A.N. advised you that he no longer wanted the property in his name.
  - e) THAT when A.N. advised you that he no longer wanted the property in his name, you arranged for K.K. to take title to the property.
  - f) THAT according to Land Titles' records, on or about September 17, 2001, title to the Georgian Village property transferred to K.K. and S.K. for a value of \$110 000 and nominal consideration.
  - g) THAT after title to the Georgian Village property transferred from the N's to K.K. and S.K., there was a default on the mortgage payments.
  - h) THAT A.N. was informed by Scotiabank Mortgage that he was being held liable by Scotiabank Mortgage for the defaulted mortgage payments even though the mortgage default took place after title to the property was no longer in his name.
  - i) THAT after being advised by Scotiabank Mortgage that he was being held liable for the defaulted mortgage, A.N. contacted you. You initially told him to go and see lawyer G.K.. After this, A.N. attempted to contact you and you would not return his telephone calls or his messages.
- 3. THAT between the dates of 2000 to April 2001, you failed to disclose to A.N. and Z.N. at the earliest practical opportunity, any direct or indirect interest you may have had in a real estate transaction as a result of your family association with R.R., the seller of the Georgian Village property, contrary to section 2(l) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
  - a) THAT you acted on behalf of the N's and on behalf of R.R. in a real estate transaction involving the sale of the Georgian Village property from R.R. to the N's as referred to herein in paragraphs 1a) to 1l).
  - b) THAT you never disclosed to the N's in any fashion that R.R. was your wife.
- 4. THAT on or about October 6, 2006, you failed to cooperate fully with Myrtle

Sharp a representative of the Real Estate Council of Alberta (hereinafter "RECA") carrying out her responsibilities under the legislation, by failing to answer questions asked of you by Myrtle Sharp during the course of the RECA investigation, contrary to section 41(h) of the *Real Estate Act Rules* made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5 and section 38(4) of the *Real Estate Act*. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:

- a) THAT on or about October 6, 2006, Myrtle Sharp, the RECA investigator duly appointed by the Executive Director under the *Real Estate Act* to investigate your conduct matters, asked you why title to K.K.'s property had transferred to you the day after title to the Georgian Village property had transferred from the N's to K.K. and S.K.
- b) THAT you refused to answer this question and that you advised Myrtle Sharp that you did not want to discuss this file and that it had nothing to do with the Georgian Village property transaction.
- c) THAT on or about October 6, 2006, you also refused to answer questions asked of you by Myrtle Sharp with respect to why the property located at 6416 Norfolk Drive NW was sold back to K.K.

#### **Investigation File #2108-06**

- 5. THAT between the dates of July 17, 2006 and October 31, 2006, you failed to cooperate with Myrtle Sharp, a representative of RECA carrying out her responsibilities under the legislation, by failing to provide information and documents requested of you by Myrtle Sharp during the course of the RECA investigation, contrary to section 7(d) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5, section 41(h) of the *Real Estate Act Rules* made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5, and section 38(4) of the *Real Estate Act*. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
  - a) THAT by way of letter to you dated July 17, 2006, Myrtle Sharp advised you that the Executive Director of RECA had opened an investigation regarding your conduct as a real estate associate while you were registered with Century 21 Central Realty Inc. specifically in regard to a civil action filed against you by A.H. and the contents of the Dispute Note filed on your behalf.
  - b) THAT in Myrtle Sharp's July 17, 2006 letter to you, she requested that you provide copies of certain specified documents by August 8, 2006. The documents requested by her included the following:
    - i. Copies of documents which had not been submitted to the brokerage relating to your relationship with A.H. including employment documents, purchase contracts prepared on A.H.'s behalf, listing agreements prepared on A.H.'s behalf.
    - ii. It was further specified in this letter that documentation should include but was not limited to purchase contracts, titles, mortgages, leases, accounting records including security deposit records, listings, letters of termination, etc..
  - c) THAT in this same July 17, 2006 letter, Myrtle Sharp also requested

that you provide a detailed written statement responding to the issues set out in this letter by August 8, 2006.

- d) THAT on or about August 10, 2006, Myrtle Sharp advised you that you could have an extension to provide the information and documents referenced herein in paragraphs 5b) and 5c) to August 14, 2006.
  - e) THAT on or about August 14, 2006, you provided a written statement in response to this investigation and in response to the information and documents you were requested to provide to Myrtle Sharp stating:
    - With respect to the civil lawsuit it has nothing to do with my activity as a real estate agent
    - DID NOT create any false contract no I participated in any unlawful activity
  - f) THAT on or about August 15, 2006, Myrtle Sharp advised you by way of email and by way of telephone that your response referenced herein in paragraph 5e) was incomplete and not satisfactory.
  - g) THAT on or about August 17, 2006, Myrtle Sharp sent you a letter requesting that you provide the information and documents referenced herein in paragraphs 5b) and 5c).
  - h) THAT on or about August 23, 2006, Myrtle Sharp sent you a letter requesting the information and documents referenced herein in paragraphs 5b) and 5c).
  - i) THAT on or about September 21, 2006, the Executive Director of RECA sent you a letter requesting that you provide the information and documents referenced herein in paragraphs 5b) and 5c) by September 27, 2006.
  - j) THAT on or about September 28, 2006, Myrtle Sharp sent you a letter reminding you that you had been asked numerous times to provide the documents referenced herein in paragraphs 5b) and 5c).
  - k) THAT you refused, neglected, or failed to provide the information and documents referenced herein in paragraphs 5b) and 5c) by September 27, 2006 or at anytime thereafter.
6. THAT between the dates of September 27, 2006 and October 6, 2006, you failed to cooperate with Myrtle Sharp and/or J.F. representatives of RECA carrying out their responsibilities under the legislation, by failing to answer questions asked of you by them during the course of a RECA investigation, contrary to section 7(d) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006), section 41(h) of the *Real Estate Act Rules* (in force as of October 1, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5 and section 38(4) of the *Real Estate Act*. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
- a) THAT on or about September 27, 2006, you were interviewed by Myrtle Sharp and Joseph Fernandez., RECA's Director of Audits and Investigations, in relation to RECA's investigation into your conduct regarding the civil action filed by A.H. and the Dispute Note filed on your behalf.
  - b) THAT during this interview, you advised Myrtle Sharp and Joseph Fernandez that based on your lawyer's advice, you would not be

- answering any questions in relation to this investigation file.
- c) THAT during this interview, you were advised by Joseph Fernandez that your failure to answer questions may be considered failure to cooperate.
- d) THAT on or about October 6, 2006, you were interviewed by Myrtle Sharp in relation to the civil action filed by A.H.
- e) THAT during this October 6, 2006 interview, you advised Myrtle Sharp that you would not be answering questions in relation to the investigation in regard to the civil action filed by A.H.

### **Investigation File# 2109-06**

7. THAT in or around March 2002 to April 2002, you received monies from A.H. in the course of carrying on business as a real estate associate without having entered into a service agreement with A.H. expressly acknowledging the trust arrangement between you and A.H. and setting out the terms on which this money would be held, received, and disbursed, contrary to section 18(2) of the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
  - a) THAT in or around 2002, you were representing A.H. in his search for a hotel to purchase.
  - b) THAT on or about March 28, 2002, you received from A.H. \$39 000 that he provided to you to be used as a deposit in relation to an Offer to Purchase that he had instructed you to submit on his behalf for the purchase of the Alix Hotel located in Alix, Alberta.
  - c) THAT on or about March 28, 2002, A.H. provided you the \$39 000 deposit by way of a bank draft in the amount of \$38 500 and by way of cash in the amount of \$500.
  - d) THAT at no time did you enter into a service agreement with A.H. acknowledging that the \$39 000 or any portion of it was being provided to you in trust and setting out the terms in which you would hold this money, receive this money, and disburse this money.
8. THAT between the dates of March 2002 to 2003, you failed to act in accordance with the lawful instructions of your client, A.H. contrary to section 2(b) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
  - a) THAT between March 2002 and April 2002, you acted on behalf of A.H. in his attempt to purchase the Alix Hotel located in Alix, Alberta.
  - b) THAT based on your advice to him, A.H. provided you with instructions to submit an Offer to Purchase on his behalf for the purchase of the Alix Hotel for the purchase price of \$260 000 with an initial deposit of \$39 000.
  - c) THAT on or about March 28, 2002, you submitted an Offer to Purchase for the purchase of the Alix Hotel on behalf of A.H. and 706260 Alberta Inc. for the purchase price of \$240 000 with an initial deposit of \$20 000.
  - d) THAT you never made A.H. aware that you submitted the Offer to

- Purchase as detailed herein in paragraph 8c).
- e) THAT A.H. was of the belief that you submitted an Offer to Purchase in accordance with his instructions as detailed herein in paragraph 8b).
  - f) THAT you advised A.H. that the Offer to Purchase he believed you submitted had been rejected by the owner of the Alix Hotel.
  - g) THAT based on your advice to him, A.H. instructed you to submit another Offer to Purchase on his behalf for a purchase price of \$275 000.
  - h) THAT A.H. was of the belief that you submitted an Offer to Purchase in accordance with his instructions as detailed herein in paragraph 8g).
  - i) THAT you never submitted a second Offer to Purchase for the purchase of the Alix Hotel.
9. THAT between the dates of March 28, 2002 to April 2003, you accepted a deposit directly from A.H. for a real estate trade and failed to ensure that this trust money was dealt with in accordance with the Offer to Purchase signed by A.H. and you also failed to ensure that this trust money was deposited in accordance with section 25 of the *Real Estate Act*, contrary to section 23(d) of the *Real Estate Act Rules* (in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
- a) THAT on or about March 28, 2002, you received from A.H. \$39 000 by way of a bank draft in the amount of \$38 500 and by way of cash in the amount of \$500.
  - b) THAT A.H. provided you with this \$39 000 to be used as the Initial deposit for the Offer to Purchase for the Alix Hotel.
  - c) THAT the Offer to Purchase signed by A.H. on or about March 30, 2002, provided that the Initial Deposit was to be delivered in trust to the Seller's Lawyer.
  - d) THAT R.S., the owner of the Alix Hotel, rejected the Offer to Purchase that you submitted to her and she was never provided a deposit in relation to the Offer to Purchase that was presented to her.
  - e) THAT Clause 3.5 of the Offer to Purchase signed by A.H. set out that Deposits shall be held in trust for both the Seller and the Buyer and that Clause 3.5(b) set out that deposits shall be:

Forthwith refunded to the Buyer if this Offer is not accepted ....

- f) THAT you did not forthwith return the \$39 000 or any amount of it to A.H. when the Offer to Purchase was not accepted
10. THAT between the dates of March 28, 2002 and 2003, you failed to act in your client's, A.H.'s, best interests by accepting monies that were given to you by A.H. in trust and not returning the monies to him when he requested that you do so, contrary to section 2(a) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006). This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:

- a) THAT on or about March 28, 2002, you received from A.H. \$39 000 by way of a bank draft in the amount of \$38 500 and by way of cash in the amount of \$500.
  - b) THAT A.H. provided you with this \$39 000 to be used as the Initial deposit for the Offer to Purchase for the Alix Hotel.
  - c) THAT the Offer to Purchase you presented to R.S. was rejected by her.
  - d) THAT when R.S. rejected the Offer to Purchase, you failed to return forthwith the deposit monies given to you by A.H. in trust in accordance with the terms of the Offer to Purchase signed by him.
  - e) THAT sometime in early 2003, A.H. asked for a return of the deposit monies that he had provided to you in relation to the Alix Hotel transaction.
  - f) THAT sometime in 2003, A.H. obtained this money from your wife R.R.. The money you provided to your wife to give to A.H. was \$20 000, payable to A.H. in the form of a bank draft made payable to him dated April 22, 2003.
  - g) THAT when A.H. asked you about the remaining \$19 000 that was owing to him, you advised him that you had invested these monies in the stock market and that only \$8000 was remaining of this amount.
  - h) THAT at no time did A.H. give you permission to invest this \$19 000 and at no time did A.H. authorize you to use these monies for any purpose other than as a deposit for the Alix Hotel transaction.
  - i) THAT at no time did you advise A.H. that you were using this remaining \$19 000 for a purpose other than as a deposit for the Alix Hotel transaction.
  - j) THAT to-date, you have failed, refused, or neglected to return this \$19 000 to A.H..
11. THAT between the dates of March 28, 2002 and April 9, 2002, you failed to provide the trade records and/or documentation in relation to A.H.'s attempted purchase of the Alix Hotel to Century 21 Central Realty Inc., the brokerage to which you were registered to trade in real estate with during this period, contrary to section 23(e) of the Real Estate Act Rules (as they then were, in force from October 1, 1999 to September 30, 2006) made pursuant to the Real Estate Act, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
- a) As referenced herein in paragraphs 8a) to 8i), you acted on behalf of A.H. in relation to his attempted purchase of the Alix Hotel.
  - b) That from March 28, 2002 to April 9, 2002, you were registered to trade in real estate with the Century 21 Central Realty Inc. brokerage.
  - c) That you did not submit any trade records or documents in relation to A.H.'s attempted purchase of the Alix Hotel to the Century 21 Central Realty brokerage.
12. THAT between the dates of July 17, 2006 to October 31, 2006, you failed to cooperate with Myrtle Sharp, a representative of RECA carrying out her responsibilities under the legislation by failing to provide documents requested of you by her and by failing to provide information requested of you by her, contrary to section 7(d) of the *Code of Conduct* (as it then was, in



force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5, section 41(h) of the *Real Estate Act Rules* made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5, and section 38(4) of the *Real Estate Act*. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:

- a) THAT by way of letter to you dated July 17, 2006, Myrtle Sharp advised you that the Executive Director of RECA had opened an investigation regarding your conduct as a real estate associate in relation to the aborted sale of the Alix Hotel in Alix, Alberta.
- b) THAT in her letter to you of July 17, 2006, Myrtle Sharp requested that you provide copies of certain specified documents by August 8, 2006. The documents requested by Myrtle Sharp included copies of all documents in your possession having to do with:
  - i. The attempted purchase of the Alix Hotel by A.H. and 706260 Alberta Inc.
  - ii. Bank records from the account into which you deposited the \$38 500 bank draft from A.H. for the period March 1, 2002 to May 30, 2003.
  - iii. The listing and sale of the Delice Bakery at 920 Northmount Drive N.W., Calgary, Alberta..
  - iv. Any and all other real estate dealings you had with A.H..
  - v. The civil claim filed by A.H. for recovery of his deposit.
  - vi. Copies of documents not submitted to the brokerage relating to your relationship with A.H., including employment documents, purchase contracts prepared on A.H.'s behalf, listing agreements prepared on A.H.'s behalf.
- c) THAT by letter dated July 17, 2006, Myrtle Sharp requested that you provide certain information by August 8, 2006, namely:
  - i. A written statement on whether you provided copies of the documents related to the transaction referred to herein in paragraphs 12b)i. – 12b)vi. to your brokerage. If not, you were asked to list the reasons for this. If yes, you were asked to explain the process you followed in handing in your paperwork.
  - ii. A detailed written statement outlining the events leading to the Alix Hotel transaction.
- d) THAT on or about August 10, 2006, Myrtle Sharp advised you that you could have an extension to provide the requested information and documents referred to herein in paragraphs 12b)i. to 12b)vi. and 12c) to August 14, 2006.
- e) THAT on or about August 14, 2006, you provided a written statement to Myrtle Sharp stating:

With respect to the civil lawsuit it has nothing to do with my activity as a real estate agent  
DID NOT create any false contract no I participated in any unlawful activity [sic]
- f) THAT on or about August 15, 2006, Myrtle Sharp advised you by way of email and by way of telephone that your response referred to herein in paragraph 12e) was incomplete and not satisfactory.
- g) THAT on or about August 17, 2006, Myrtle Sharp sent you a letter requesting that you provide the information and documents

- referenced herein in paragraphs 12b) and 12c).
- h) THAT on or about August 23, 2006, Myrtle Sharp sent you a letter requesting the information and documents referenced herein in paragraphs 12b) and 12c).
  - i) THAT on or about September 21, 2006, the Executive Director of RECA sent you a letter requesting that you provide the information and documents referenced herein in paragraphs 12b) and 12c) by September 27, 2006.
  - j) THAT on or about September 28, 2006, Myrtle Sharp sent you a letter reminding you that you had been asked numerous times to provide the documents referenced herein in paragraphs 12b) and 12c).
  - k) THAT you refused, neglected, or failed to provide the documents referenced herein in paragraphs 12b) and 12c) by September 27, 2006 or at anytime thereafter

### **Investigation File #2110-06**

13. THAT between the dates of May 7, 1999 and January 22, 2001, you made representations and/or carried on conduct that was reckless and misled any person or was likely to do so, contrary to section 4(d) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5, and contrary to section 3(d) of the *Code of Conduct* (as it then was, in force from October 1, 1998 to September 30, 1999) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
- a) THAT on or about May 7, 1999, you completed a RECA Real Estate Salesperson Registration form, seeking to be registered as a real estate associate with the Bravo Realty Ltd. o/a Century 21 Bravo Realty brokerage.
  - b) THAT on this RECA Real Estate Salesperson Registration form, all applicants were asked:  
In the last FIVE years, have you been convicted (or pardoned) of any offence under any law of any Country, Province or State (excluding traffic violations)?
  - c) THAT in response to this question, you answered "No".
  - d) THAT this RECA Real Estate Salesperson Registration Form contained the following warning and instruction for all applicants:  
All questions must be answered completely and truthfully. The making of a false statement on this affidavit constitutes a criminal offense and is punishable by law. Any affidavit containing a material falsity may result in the refusal of this application and the suspension or cancellation of any authorization issued thereupon.
  - e) THAT on this RECA Real Estate Salesperson Registration Form, you swore out the following Affidavit:  
I ALMAN ADEL of Calgary in the Province of Alberta do solemnly swear as follows:  
That I have read and understand all questions and statements, all answers in the foregoing are true and correct to the best of my knowledge, information and belief and I make this Affidavit

- conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.
- f) THAT on or about August 30, 2000, you completed a RECA Licensing Application seeking to be licensed for the 2000/2001 Licensing year. On this Licensing Application Form, all applicants were asked:  
In the last FIVE years, have you been convicted or pardoned of any offence under any law of any Country, Province or State excluding traffic violations?
- g) THAT in response to this question, you answered "No".
- h) THAT this RECA Licensing Application contained the following warning:  
All questions must be answered completely and truthfully. The making of a false statement on this affidavit constitutes a criminal offense and is punishable by law. Any affidavit containing a material falsity may result in the refusal of this application and the suspension or cancellation of any authorization issued thereupon.
- i) THAT on this RECA Real Estate Salesperson Registration Form, you swore out the following Affidavit:  
I ALMAN ADEL of Calgary in the Province of Alberta do solemnly swear as follows:  
That I have read and understand all questions and statements. All answers in the foregoing are true and correct to the best of my knowledge, information and belief and I make this affidavit conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.
- j) THAT on or about January 22, 2001, you completed a RECA Real Estate Agent License Application 2000/2001 Form seeking to be registered with the Calgary Independent Realty Ltd. o/a C.I.R. brokerage. On this License Application Form, all applicants were asked:  
In the last FIVE years, have you been convicted of any offence under any law of any Country, Province or State (excluding traffic violations)?
- k) THAT in response to this question, you answered "No".
- l) THAT on this License Application Form, the following warning was set out for all applicants:  
All questions must be answered completely and truthfully. The making of a false statement on this Affidavit constitutes a criminal offense and is punishable by law. Any affidavit containing false or misleading information may result in the refusal of this application and the suspension or cancellation of any authorization issued thereupon.
- m) THAT on this License Application Form, you swore out the following Affidavit:  
I Alman Adel of the City of Calgary in the Province of Alberta  
DO SOLEMNLY SWEAR AS FOLLOWS:  
1. I have read and understand all questions and statements. All information on this application is true.

- n) THAT on or about January 26, 1996, you were convicted of Importing Goods into Canada without an Import Permit, contrary to section 14 of the *Export and Import Permits Act*, R.S.C.1985 c. E-19.
14. THAT between the dates of April 4, 2006 and June 22, 2006, you made representations and/or carried on conduct that was reckless and misled any person or was likely to do so, contrary to section 4(d) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
- a) THAT on or about April 4, 2006, you completed a RECA Licensing Application Form seeking to be registered with the Signet Real Estate Ltd. o/a Signet Commercial brokerage. On this Licensing Application Form, all applicants were asked to list:  
All previous legal names and other names by which you are/have been known
  - b) THAT you did not list anything in response to this, thereby indicating to RECA that you had no previous legal name or other name by which you were known or had been known by.
  - c) THAT on this RECA Licensing Application Form, the following warning was set out for all applicants:  
All questions must be answered truthfully and completely. Making a false statement on this affidavit constitutes a criminal offense and is punishable by law. Any affidavit containing false or misleading information may result in the refusal of the application and the suspension or cancellation of any authorization issued thereupon.
  - d) THAT on this RECA Licensing Application Form, you swore out the following Affidavit:  
I Alman Adel of the City of Calgary in the province of Alberta do solemnly swear as follows:  
1. I have read and understand all questions and statements. All information in this application is true.
  - e) THAT on or about April 6, 2006, you completed and submitted a RECA Licensing Application Form, seeking to be registered with C.I.R. Realty. On this Licensing Application Form, all applicants were asked to list:  
All previous legal names and other names by which you are/have been known
  - f) THAT you did not list anything in response to this, thereby indicating to RECA that you had no previous legal name or other name by which you were known or had been known by.
  - g) THAT on this RECA Licensing Application Form, the following warning was set out for all applicants:  
All questions must be answered truthfully and completely. Making a false statement on this affidavit constitutes a criminal offense and is punishable by law. Any affidavit containing false or misleading information may result in the refusal of the application and the suspension or cancellation of any authorization issued thereupon.

- h) THAT on this RECA Licensing Application Form, you swore out the following Affidavit:
  - I Alman Adel of the City of Calgary in the province of Alberta do solemnly swear as follows:
    - 1. I have read and understand all questions and statements. All information in this application is true.
- i) THAT on or about June 22, 2006, you completed a RECA Licensing Application Form, seeking to be registered with the Esquire Realty Inc. o/a Esquire Management Group brokerage. On this Licensing Application Form, all applicants were asked to list:
  - All previous legal names and other names by which you are/have been known
- j) THAT you did not list anything in response to this, thereby indicating to RECA that you had no previous legal name or other name by which you were or had been known by.
- k) THAT on this RECA Licensing Application Form, the following warning was set out for all applicants:
  - All questions must be answered truthfully and completely. Making a false statement on this affidavit constitutes a criminal offense and is punishable by law. Any affidavit containing false or misleading information may result in the refusal of the application and the suspension or cancellation of any authorization issued thereupon.
- l) THAT on this RECA Licensing Application Form, you swore out the following Affidavit:
  - I Alman Adel of the City of Calgary in the province of Alberta do solemnly swear as follows:
    - 1. I have read and understand all questions and statements. All information in this application is true.
- m) THAT on or about December 21, 1987, your name was legally changed from Alman Abdulbaki to Alman Adel.
- 15. THAT between the dates of August 29, 2006 and September 27, 2006, you made representations and/or carried on conduct that was reckless and misled any person or was likely to do so, contrary to section 4(d) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
  - a) THAT on or about August 29, 2006, you completed an Associate/Associate Broker Application for Registration Form for the 2006/2007 licensing year. On this Application for Registration Form, all applicants were asked:
    - Have you or has any business you owned or participated in as a director, officer or manager been in bankruptcy or the subject of bankruptcy proceedings or receivership actions?
  - b) THAT in response to this question, you answered "No".
  - c) THAT on this Application for Registration Form, all applicants were instructed to:
    - Please read the following questions carefully and answer truthfully
  - d) THAT on this Application for Registration Form, you swore out an Affidavit acknowledging the following:

All questions must be answered truthfully and completely. Making a false statement on this affidavit constitutes a criminal offense and is punishable by law. Any affidavit containing false or misleading information may result on the refusal of the application and suspension or cancellation of any authorization issued thereupon.

- e) THAT on or about September 27, 2006, you completed another Associate/Associate Broker Application for Registration Form seeking to be registered with the Esquire Management Group brokerage as an Associate Broker for the 2006/2007 licensing year. On this Application for Registration Form, all applicants were asked:  
Have you or has any business you owned or participated in as a director, officer or manager been in bankruptcy or the subject of bankruptcy proceedings or receivership actions?
  - f) THAT in response to this question, you answered "No".
  - g) THAT on this Application for Registration Form, all applicants were instructed to:  
Please read the following questions carefully and answer truthfully
  - h) THAT on this Application for Registration Form, you swore out an Affidavit acknowledging the following:  
All questions must be answered truthfully and completely. Making a false statement on this affidavit constitutes a criminal offense and is punishable by law. Any affidavit containing false or misleading information may result on the refusal of the application and suspension or cancellation of any authorization issued thereupon.
  - i) THAT you made an assignment into bankruptcy on or about May 21, 1987 to which you were granted an absolute discharge on or about May 1, 1989.
16. THAT between the dates of May 7, 1999 and September 27, 2006, you failed to act fairly, honestly, and with integrity when dealing with RECA, non-clients, contrary to section 7(b) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006), made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include, but are not limited to the particulars as set out herein in paragraphs 13a) to 13n), paragraphs 14a) to 14m) and paragraphs 15a) and 15i).

#### **Investigation File# 2113-06**

17. THAT on or about July 13, 2006, you failed to be professional in your dealings with the public, contrary to section 7 of the *Code of Conduct*, (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
- a) THAT on or about July 12, 2006, Ron Lawson, RECA's Registrar at the time, had a conversation with you and advised you that a decision had been made by the Executive Director to deny your application for a Registration Certificate to trade in real estate. Ron Lawson advised

you that the correspondence with respect to this decision was not ready as of yet.

- b) THAT on or about July 13, 2006, you came to the offices of the Real Estate Council of Alberta located at 340, 2424 – 4<sup>th</sup> Street SW, Calgary, in order to obtain the correspondence referred to herein in paragraph 18b).
- c) THAT Ron Lawson met with you in the foyer of RECA's offices which are accessible to the public and advised you that the correspondence was not ready as of yet.
- d) THAT when Ron Lawson advised you that the document was not ready, you loudly stated that RECA were all a bunch of racists and caused a disturbance in the lobby of the RECA offices.

### Investigation File# 2118-06

18. THAT between the dates of July 27, 2006 and September 30, 2006, you failed to practice in strict accordance with the Act, Rules, Bylaws, and Regulations and any other laws that govern trading in real estate or mortgage transactions in Alberta by failing to practice in accordance with the terms, conditions or restrictions placed on your registration certificate issued by the Executive Director of RECA in accordance with section 13(i) of the *Real Estate Act Rules* (as they then were, in effect from October 1, 1999 to September 30, 2006), contrary to section 7(a) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006), made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include, but are not limited to the following:

- a) THAT on or about July 12, 2006, the Executive Director of RECA approved the issuance of a registration certificate to you subject to terms, conditions, or restrictions with respect to trading in real estate, which included the following:
  - Notifying the Executive Director, in writing, immediately, if any proceedings pursuant to the *Criminal Code of Canada* were commenced against you
  - Providing to your broker daily, all original documentation and copies of original documents provided to the parties or maintained by other brokerages related to a trade in real estate and required under the *Real Estate Act* and *Real Estate Act Rules*.
  - Keeping your broker informed daily of your activities performed on behalf of the brokerage
- b) THAT on or about July 27, 2006, you were arrested by the Calgary Police Service and on or about July 28, 2006, you were charged with the following *Criminal Code of Canada* offences:
  - i. Fraud over \$5000 (contrary to s. 380(1)(a) of the *Criminal Code of Canada*);
  - ii. Criminal Breach of Trust (contrary to s. 336 of the *Criminal Code of Canada*); and
  - iii. Theft over \$5000 (contrary to s. 334(a) of the *Criminal Code of Canada*)

- c) THAT on or about August 2, 2006, RECA became aware of your criminal charges referred to herein in paragraph 18b).
  - d) THAT on or about August 2, 2006, Myrtle Sharp contacted you and asked you why you had not notified RECA of the criminal charges referred to herein in paragraph 18b).
  - e) THAT during this August 2, 2006 conversation, you advised Myrtle Sharp that you had instructed your lawyer, J.M. to notify RECA of the criminal charges referred to herein in paragraph 18b).
  - f) THAT on or about October 2, 2006, Myrtle Sharp spoke with J.M. and J.M. indicated to her that he was unaware of the criminal charges against you, referred to herein in paragraph 18b).
  - g) THAT on or about August 31, 2006, you were representing 1152153 Alberta Inc. in the corporation's attempted purchase of the Bassano Hotel located at 510 – 2<sup>nd</sup> Avenue, Bassano, Alberta.
  - h) THAT on or about August 31, 2006, an Offer to Purchase was submitted on behalf of 1152153 Alberta Inc. for the purchase of the Bassano Hotel.
  - i) THAT on or about September 10, 2006, final acceptance was reached between the sellers and 1152153 Alberta Inc..
  - j) THAT on or about September 13, 2006, Myrtle Sharp spoke with the broker of Esquire Management Group, M.M., and he advised her that he was unaware of your representation in this transaction.
19. THAT between the dates of August 2, 2006 and October 30, 2006, you failed to cooperate with RECA investigator Myrtle Sharp by misleading her, contrary to section 7(d) of the *Code of Conduct* (as it then was, in force from October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5, section 41(h) of the *Real Estate Act Rules* and section 38(4) of the *Real Estate Act*. This is conduct deserving of sanction, the particulars of which have been set out herein from paragraphs 18e) to 18f).
20. THAT between the dates of July 27, 2006 and September 13, 2006, you failed to provide notice to your broker, M.M., that proceedings pursuant to the *Criminal Code of Canada* had been commenced against you, contrary to section 40(3) of the *Real Estate Act Rules* made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
- a) THAT as referred to herein in paragraph 18b), on or about July 27, 2006, you were arrested by the Calgary Police Service and on or about July 28, 2006, you were charged with the following *Criminal Code of Canada* offences:
    - i. Fraud over \$5000 (contrary to s. 380(1)(a) of the *Criminal Code*);
    - ii. Criminal Breach of Trust (contrary to s. 336 of the *Criminal Code*); and
    - iii. Theft over \$5000 (contrary to s. 334(a) of the *Criminal Code*).
  - b) THAT on or about August 2, 2006, Myrtle Sharp spoke with M.M. who advised her that he was unaware of the criminal charges against you referred to herein in paragraph 20a).
21. THAT between the dates of July 27, 2006 and September 13, 2006, you failed to immediately notify the Executive Director, in writing, when proceedings pursuant to the *Criminal Code of Canada* were commenced



against you, contrary to section 40(1)(g) of the *Real Estate Act Rules*, the particulars of which have been set out from paragraphs 18b) to 18f).

**Investigation File# 2224-07**

22. THAT between the dates of October 1, 2006 and October 10, 2006, you traded in real estate and/or held yourself out as a real estate broker, associate broker and/or associate without being issued a license and/or without being registered with a brokerage licensed by the Council, contrary to section 6(4) of the *Real Estate Act Rules* made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5 and section 17(a) of the *Real Estate Act*. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:
- a) THAT on or about September 27, 2006, you completed a 2006/2007 Broker Application for Registration Form, seeking to be registered with Esquire Management Group, a brokerage licensed by RECA, for the 2006/2007 licensing year (October 1, 2006 to September 30, 2007), as an Associate Broker.
  - b) THAT the bottom of the 2006/2007 Broker Application for Registration Form that you completed referred to herein in paragraph 19(a) contained the following warning for all applicants:  
DO NOT TRADE IN REAL ESTATE OR DEAL IN MORTGAGES  
UNTIL YOU CONFIRM YOUR AUTHORIZATION ON  
[WWW.RECA.CA](http://WWW.RECA.CA)
  - c) THAT on or about October 3, 2006, you were aware that the decision to renew your registration certificate was still under consideration by the Executive Director as you had a conversation with Myrtle Sharp on or about October 3, 2006 where you asked her why your license was terminated and she indicated to you that it was on hold.
  - d) THAT on or about October 4, 2006, you acted on behalf of A.S. in his attempt to purchase a property located at #310, 30 Sierra Morena Mews S.W., Calgary (hereinafter "the Sierra Morena Mews property").
  - e) THAT on or about October 4, 2006, an Offer to Purchase was submitted on behalf of A.S. to Sellers' Representative for the Sierra Morena Mews property and on or about October 5, 2006, final acceptance was reached between A.S. and the Sellers.
  - f) THAT the Executive Director did not approve your application for registration, a decision to which you were notified of by way of letter dated October 18, 2006.
23. THAT between the dates of September 27, 2007 and November 20, 2007, you failed to cooperate with V. P., a representative of the Real Estate Council of Alberta carrying out her responsibilities under the legislation, by failing to provide information and documents requested of you by V.P. during the course of a RECA investigation, contrary to section 41(h) of the *Real Estate Act Rules* made pursuant to the *Real Estate Act*, R.S.A. 2000, c. R-5 and s. 38(4) of the *Real Estate Act*. This is conduct deserving of sanction, the particulars of which may include but are not limited to the following:

- a) THAT by letter to you dated September 27, 2007, V.P. advised you that the Executive Director of RECA had opened an investigation in order to determine whether or not you traded in real estate when you did not hold an authorization to do so in relation to your activities regarding the Sierra Morena Mews property.
- b) THAT in V.P.'s September 27, 2007 letter to you, she requested that you provide copies of certain specified documents by October 12, 2007. The documents requested by her included the following:
  - i. Copies of any documents relating to this transaction
- c) THAT in this same September 27, 2007 letter, V.P. also requested that you provide certain specified information by October 12, 2007. The information requested by her included the following:
  - i. Your detailed written statement describing this transaction from your first association with the property and clients to the outcome; including client names and contact information.
  - ii. The commission arrangements you had related to this trade.
  - iii. The date of the transaction; including the date of the initial conditional offer to purchase and the final acceptance of the purchase contract. You were also asked to provide the dates of any additional addendums or waivers.
  - iv. The name of the person who wrote up the conditional offer to purchase and any addendums and notices.
  - v. Detail as to whether or not this contract was fulfilled and if not, the reasons why it was not fulfilled, including a detailed explanation as to your involvement in the failure or fulfillment of the purchase contract.
  - vi. Your detailed written statement describing the status of your authorization to trade in real estate at the time of this purchase; including an explanation of your authority to conduct the trade if you were not authorized to do so.
  - vii. Your detailed written describing any advice you received related to this trade or any subsequent trades; including the name and contact information of those who advised you;
  - viii. A list of trades conducted from October 1, 2006 to current; including client names, contact information and addresses. If there were such trades, you were asked to provide all supporting documentation relating to these trades.
- d) THAT you refused, neglected, or failed to provide the requested documents and information as set out in the September 27, 2007 letter by October 12, 2007.
- e) THAT by way of letter dated October 17, 2007, V.P. again requested the information and documents referenced herein in paragraphs 20b) and 20c) and asked that you provide this by October 31, 2007.
- f) THAT you refused, neglected, or failed to provide the requested documents and information as set out in the October 17, 2007 letter by October 31, 2007.
- g) THAT by way of letter dated November 5, 2007, the Executive Director of RECA sent you a letter requesting that you provide the information and documents referenced herein in paragraphs 20b) and 20c) by November 20, 2007.
- h) THAT you refused, neglected, or failed to provide the documents

referenced herein in paragraphs 23b) and 23c) by November 20, 2007 or at anytime thereafter.

### **III) EVIDENCE**

Throughout the hearing, paper and electronic exhibits were presented. Paper exhibits were located within 7 binders. Recordings of telephone conversations entered as exhibits were heard at the time of the hearing and made available on CDs. Counsel for the Executive Director presented 9 witnesses. Counsel for Mr. Adel presented one witness as well as Mr. Adel, who testified on his own behalf.

There were 23 allegations of misconduct for which Mr. Adel was asked to answer. These allegations were brought forward by the Executive Director of The Real Estate Council of Alberta as a result of 7 investigations.

**Allegations 4, 5, 6, 12, 19, and 23** dealt with failure to cooperate with representatives of the Real Estate Council of Alberta (RECA) carrying out their investigative responsibilities under the legislation. The Hearing Panel heard evidence read by Myrtle Sharp., a former RECA investigator and Joseph Fernandez, Director of Audit and Investigation. Ms Sharp and Mr. Fernandez read this evidence directly from transcripts of interviews with Mr. Alman Adel. This evidence dealt with questions being asked of Mr. Adel regarding matters under investigation and Mr. Adel's response. Evidence was also presented in the form of printed email communications between Mr. Adel and Ms. Sharp where Mr Adel was asked to provide RECA with specific documents, attend interviews at the RECA office, and/or clarify certain information pertaining to matters under investigation. Ms. Ramaswamy, Counsel on behalf of the Executive Director also presented audiotapes of telephone conversations between Mr. Adel and Ms. Sharp where requests for documents were made and clarifications requested. Also presented to the Panel in the form of audio recordings are messages left by Mr. Adel on Ms. Sharp's voicemail directed her to stop asking him questions. The Panel heard a recorded conversation between M.M., broker of Esquire Management, and Ms. Sharp where Ms. Sharp asked M.M. to inform Mr. Adel of an upcoming meeting to insure Mr. Adel's awareness of the meeting date and time. A number of letters from RECA to Alman Adel requesting meetings, documents, explanation for missed appointments or lack of responses to previous communications were presented. A Civil Claim by A.H. against Alman Adel Abdulbaki and Alberta Hotels and 706260 Alberta Inc., Alberta Hotel & Motel for unpaid wages was entered (exhibit 3-4). A Dispute Note filed by G.B. on behalf of his client, Alman Adel stated that A.H. was never employed by Mr. Adel and that the Statement of Remuneration Paid was provided by Mr. Adel to assist A.H. in securing a mortgage (exhibit 3-5). Also in evidence to these allegations is a letter from J.M., solicitor for Mr. Adel, informing Ms. Sharp that he cannot answer her questions as Mr. Adel has not waived his solicitor/client privileges. On the last count of failure to cooperate, evidence was entered in the form of correspondence from Ms. Pickering to Mr. Adel regarding a real estate transaction where Mr. Adel is listed as buyer representative for A.S. in the purchase of a property in Calgary, Alberta. Mr. Adel testified that he did not receive any of these communications.

M.M., Mr. Fernandez, Ms. Sharp, Ms. Pickering and Mr. Adel testified on the matter of cooperation and any documents associated to their testimony have been marked as exhibits.

**Allegations 1 to 3** deal with events surrounding the sale of 312 Georgian Village NE, Calgary, Alberta. A.N. provided the Real Estate Council of Alberta (RECA) with his complaint against Mr. Adel. In his written complaint as well as testimony, A.N. stated that Mr. Adel offered him \$4,000 to buy a house as well as repay all expenses incurred (legal fees, deposit, and down payment) and take care of the paperwork. A.N. testified that he did not know where the house (312 Georgian Village) was when he signed the offer and that he never intended to occupy the property. Further, A.N. stated that Mr. Adel never told him the property was owned by Mr. Adel's wife, R.R., never disclosed the price R.R. paid for the property, and never took him and Z.N. to view the property prior to the sale of the house. In his testimony, A.N. identified cheques he wrote for the initial deposit (\$2,000), and the balance of the down payment (\$4,372). He also identified cheques in the same amounts written to him by Mr. Adel. In his testimony, A.N. stated that the purchase contract was not completely filled in when he signed it and that some of the initials "T.N." were not made by him. A.N. and Z.N. applied to Jencor Mortgage Corporation to finance the purchase of 312 Georgian Village as evidenced by the mortgage application, A.N.'s testimony and his statement. A.N. testified that the property at Georgian Village was occupied by a tenant, W. This individual did not provide written account or testify at the hearing. A.N. told Mr. Adel he didn't want the house in his name anymore and the property was sold for a nominal consideration to K.K.

The Panel heard the testimony of Mr. Adel who said he represented the N's on the purchase of 312 Georgian Village NE as well as the seller, R.R. Mr. Adel testified that the N's were shown the property, were buying it for their own use, that he did not offer them a part of his commission and that the cheques he wrote them were part of a loan to assist with their children's move to Canada. Mr. Adel further testified that the N's knew R.R. as his wife and knew the property belonged to his wife, that all parties met at Mr. Adel's house to write the offer to purchase and that there was a disclosure statement created. Unfortunately, the statement was in a file at his home office and his wife threw out all his documents when they separated. Mr. Adel further testified that he did not pay the legal fees, did not have anything to do with the transfer of the property to the K's and that he was unaware that K.K. had sued him for unpaid fees. Mr. Adel told the Panel that he did not review the MLS listing his assistant completed which stated the property was owner occupied, did not intend to deceive by not including a disclosure of interest in the comment section of the listing as there was an addendum in the file at his home office. Mr. Adel further testified that A.N. was an educated man whose English was sufficient for him to understand the details of a real estate transaction as well as a mortgage application. In reference to the price differential between what R.R. paid for the property and what the N's paid for it a short while later, Mr. Adel stated that this was consistent with the market conditions at the time the transaction took place. Finally, Mr. Adel testified that the N's no longer wanted the property at 312 Georgian Village because they had decided to purchase a single family home from another realtor and for no other reason.

The Panel heard the testimony of Myrtle Sharp, a former investigator with RECA assigned to investigate this matter. Ms. Sharp's testimony related in large part to the documentary evidence she collected in the course of her investigation as well as to her interviews with A.N. and Mr. Adel. Transcripts of the interviews with Mr. Adel were in exhibit 7-1 of this hearing. Email, mail and telephone conversations between Ms. Sharp

and Mr. Adel were in numerous exhibits and dealt mostly with requests for documents and clarifications. Ms. Sharp also gave evidence in her testimony of the reasons and ways she acquired documentary evidence such as land titles, corporate searches and name changes. She also explained why certain individuals were not contacted for interview. Specifically, the tenant W. could not be located and neither could K.K. R.R. was believed to have returned to Lebanon. There were no explanations as to why G.K, B.H. or anyone from Jencor weren't asked for statements or interviewed and recorded regarding this matter. Mr. Fernandez testified that in his experience, the market of 2001 was a stable market with only small increases in property values.

M.L. testified that he supplied RECA with all the documents that were in his possession regarding the investigative matter surrounding the sale of 312 Georgian Village. M.L. also testified that he played a voice mail message from Mr. Adel to Ms. Sharp where Mr. Adel threatened M.L. if he didn't keep out of his business. The Panel heard the recording of this message in evidence and marked as exhibit 2-M.

The Panel was presented with documentary evidence including but not limited to a signed offer to purchase for 312 Georgian Village with R.R. as the seller, the N's as the buyers and Alman Adel as representative for both buyers and seller. Also in evidence was the N's' mortgage application stating they would occupy the property; a mortgage commitment from Scotiabank; T4's and pay stubs for A.N. and Z.N.; the Calgary Real Estate Board listing and the MLS listing for 312 Georgian Village; an Amendment to the Real Estate Purchase Contract #37474 amending the possession date; a deal sheet submitted by Mr. Adel to his then broker, M.L., showing \$4,000 as the value of commission; a signed Agency Disclosure and Acknowledgment for Dual Agency; A Dual Agency Informed Consent form; the front and back of a cheque for \$2,000 written by A.N. to Century 21 Central Realty referencing 312 Georgian Village; a cheque for \$2,590 from Century 21 Central Realty to Alman Adel referencing "R. to N."; the front and back of a cheque for \$2,000 written by Mr. Adel to A.N.; the front and back of a cheque for \$4,372 written by A.N. to B.H., the lawyer handling the sale of 312 Georgian Village; the front and back of a cheque for \$4,372 written by Mr. Adel to A.N.; land title certificates showing ownership of 312 Georgian Village passing from R.R. to A.N. to K.K. and the consideration at each transfer. Further, there was documentary evidence of A.N. paying condo fees and mortgage arrears after the property was transferred to the K's. There was evidence that K.K. sued Alman Adel for unpaid fees for renovation work done at the Georgian Village property. There was no documentary evidence of a disclosure of interest by Mr. Adel. There was no documentary evidence of a loan agreement between Mr. Adel and the N's. There was no documentary evidence that Mr. Adel offered to give a portion of his commission to the N's.

**Allegations 7 to 11** dealt with the offer to purchase the Alix Hotel and the handling of \$39,000 given by A.H. to Mr. Adel. The Panel heard testimony from M.L., K.W. M.M., N.T., Ms. Sharp and Mr. Adel. Documentary evidence was also presented by Counsel for Mr. Adel and Counsel for the Executive Director.

M.L. testified that he had no paperwork for the Alix Hotel offer and knew nothing about it until he was copied on a letter from RECA addressed to Alman Adel relating to this matter. This letter dated July 17<sup>th</sup>, 2006 is marked exhibit 3-7. According to the rules of M.L.'s brokerage which were provided to Mr. Adel in a folder entitled "Rules of the

House", all paperwork from all transactions must go to the brokerage whether the transaction closes or not. M.L. did not review the content of the folder with Mr. Adel.

K.W., broker of Century 21 Terrace testified that he was not aware of the offer on the Alix Hotel even though the Agency Disclosure and Acknowledgment and the Informed Dual Agency Consent forms relating to Purchase Contract #21365 show Century 21 Terrace as the brokerage of record on the Alix Hotel.

M.M. testified that he received RECA's letters dated July 17 and September 13<sup>th</sup>, 2006 regarding the Alix Hotel. M.M. discussed the investigation with Mr. Adel and the latter denied any wrong doing and told M.M. his lawyer was looking into the matter. M.M. did not pursue the matter further.

N.T. testified that he drove A.H. to the Alix Hotel and asked R.S., the manager of the hotel, if an offer had been presented. She confirmed that it was presented and rejected and that no deposit was provided. N.T. testified that A.H. called Mr. Adel from N.T.'s phone while driving back from Alix, Alberta in N.T.'s car. A.H. put the call on speaker and asked Mr. Adel for his \$39,000. According to N.T., Mr. Adel agreed to give back \$20,000 if the men would drive to his house and get a cheque. N.T. identified exhibit 3-1 as the Bank of Montreal draft for the \$20,000 A.H. received from Mrs. Adel that day. According to N.T., he and Mr. Adel never spoke of this matter together.

Ms. Sharp testified that A.H. told her the bank draft issued to Alman Adel for \$38,500 was to be used for the purchase of the Alix hotel. She also testified that according to A.H., the Bank of Montreal draft for \$20,000 written to "A.H." was partial repayment of the \$39,000 (\$38,500 by cheque and \$500 by cash). She further testified that she never received documents regarding the Alix deal from Mr. Adel. Whatever documents Ms. Sharp had came from A.H. or G.B.'s office.

Mr. Adel testified that the \$39,000 received from A.H. was not for the purpose of trading in real estate but to be held in safe keeping and released to A.H. as requested. Mr. Adel explained that A.H. wanted the money out of the reach of his son who had been taking money from his father. Mr. Adel further testified that he had repaid the sum in full except for expenses Mr. Adel incurred on behalf of A.H. Mr. Adel testified that he was the intended purchaser of the Alix Hotel and A.H. was to be the hotel manager. A.H.'s name was on the offer to purchase as a show of good faith on Mr. Adel's part since he intended to give A.H. a percentage ownership in the hotel in a few years' time. Mr. Adel stated that as the offer to purchase was on his own behalf, and the deal didn't go through, he didn't have to submit paperwork. Mr. Adel further explained that he had his own money and didn't need to use someone else's money to make a deposit.

Documentary evidence includes an offer to purchase on the Alix Hotel filled in by Mr. Adel and bank drafts entered in evidence as exhibits 3-1; a letter from A.H.'s solicitors B.C.LLP. (exhibit 3-2) laying out A.H.'s claim against Mr. Adel; Mr Adel's Statement of Defense prepared by the firm of B.K. against said claim (exhibit 3-3); various bank drafts written by 706260 Alberta Ltd. To A.H. (exhibit 3-33); bank drafts written by A.H. to M.A. and cheques written to the Receiver General by A.H. and referencing Mr. Adel (exhibit 3-35). Finally, there is a court transcript of the withdrawal of criminal charges brought against Mr. Adel for fraud against A.H. There was no documentary evidence to explain how and by whom the words "21<sup>st</sup> Century Real Estate and the words 21<sup>st</sup> Century

Terrace re: Purchase Offer of Alix Hotel came to be hand written on the Royal Bank of Canada draft receipt for \$38,500 (exhibit 3-1). There was no documentary evidence that A.H. asked Mr. Adel to represent him in the purchase of the Alix Hotel aside from the B.C.LLP. letter. There was no documentary evidence of an arrangement between Mr. Adel and H. regarding the safekeeping of the \$39,000 expect for the Statement of Defence filed by Mr. Adel's solicitor. There was no documentary evidence that the offer was presented to R.S. or that she rejected the offer. The deposit amount on the incomplete purchase contract for the Alix hotel was for \$20,000. There was no evidence that the deposit was to be \$39,000.

**Allegations 13 to 16** deal with creation of false or misleading documents and failure to act fairly, honestly, and with integrity. Documentary evidence and testimony were received dealing with Mr. Adel's licence registration forms during the period of 2000 to 2006. Specifically, the issues are disclosure of names, accuracy of birth dates, disclosure of criminal charges and bankruptcies as well as signing of affidavits stating that all questions and statements were read and understood and that the information is true and correct.

**Allegation 17** deals with unprofessional conduct and refers to an event which allegedly took place on July 13, 2006 at the former RECA offices located at 340, 2424 – 4<sup>th</sup> Street SW, Calgary.

**Allegation 18, 20 & 21** deals with Mr. Adel failing to inform RECA of criminal proceedings commenced against him as well as failing to provide his broker daily documentations relating to the offer to purchase the Bassano Hotel.

**Allegation 22** deals with trading in real estate without a license by transacting on behalf of A.S. in his attempt to purchase a property located at 310, 30 Sierra Morena Mews SW, Calgary. Evidence includes cheques and a purchase contract as well as correspondence to Mr. Adel stating his licence to trade in real estate was not renewed. In testimony, Adel stated he was told by his broker he was allowed to trade, but that as soon as he was told not to, he turned all documents over to M.M., his broker, and never received commission from the S. transaction.

**Allegation 23** refers to failure to cooperate with Vi Pickering, a former RECA investigator, and evidence for this allegation has been reviewed previously in this document.

#### **IV) SUBMISSIONS**

##### *Submissions by the Executive Director*

Mr. Adel participated in fraudulent activity by approaching A.N. and asking him to purchase a property and obtain a mortgage to earn \$4000 without using his own money. There is evidence that the source of the funds for the down payment came from Mr. Adel and not from A.N. Mr. Adel's statement that the money given to A.N. was a loan was never mentioned during the interviews in 2006 and has only come up at the hearing; is not credible and should not be accepted as evidence. A.N. never moved into the property and was never supposed to, he had a property to live in – the one his sister had

bought and therefore had no motivation to buy the property to move into. Mr. Adel's evidence that A.N. called in the middle of the night telling him he needed a place to live because he had a fight with his wife was never put forth during the interviews in 2006.

The MLS listing for this property stated that it was owner occupied and newly renovated, neither of which was true. Mr. Adel testified that his wife never lived in the property and documentation showed that the renovations were at least 10 years old and not recent. Mr. Adel testified that it must have been his assistant who input the date incorrectly. However Mr. Adel is responsible for ensuring listings are accurate even if an assistant filled in the forms.

Mr. Adel failed to act in A.N.'s best interest. A.N. was unaware of the implications of an assumed mortgage. He only learned about it when he was informed by the lender of the mortgage arrears at which time he started making payments with K.K. Mr. Adel's version of the events; that he did tell A.N. about the CMHC mortgage; that he did not arrange for K.K. to buy the property should not be accepted.

There was no disclosure that Mr. Adel's wife was the owner of the property. Mr. Adel testified that he provided this information on a separate piece of paper which was not in the original brokerage file provided by M.L. during the investigation. A.N. was unaware that the owner, R.R., was Mr. Adel's wife until after he purchased the property. As there are two different last names, there is not an obvious connection. This information should have been disclosed at the earliest possibility.

Mr. Adel failed to cooperate with RECA investigations. While Mr. Adel did provide some answers in the hearing, he refused to answer the same questions during an interview. An industry member cannot be excused from answering a question by saying they don't think it is relevant. That would be too easy to impede an investigation. It is not for the industry member to decide what is and what is not relevant. Mr. Adel was given clear warning that failing to answer a questions could be deemed failure to cooperate.

Mr. Adel failed to enter into a service agreement with A.H. Evidence was presented to show an offer on a hotel. There were 2 purchasers listed on the offer to purchase, a numbered company owned by Mr. Adel and A.H. Mr. Adel admitted that he submitted an offer to purchase on the Alix Hotel, indicating A.H. as a purchaser without getting A.H.'s permission to do so.

In 1999, Mr. Adel was convicted under the criminal code but did not indicate that on his licensing application in 2003. Applicants were asked to disclose any other names they had been known by. Mr. Adel admitted that he is known in his community as Abdalbaki, even though he had his name legally changed. This information was clearly left out of applications. Mr. Adel also indicated "no" when asked if he had every declared bankruptcy even though he had in 1987, because he said it had nothing to do with real estate. There is no qualification on the application regarding the reason for a bankruptcy. Mr. Adel should have answered yes. Mr. Adel failed to act in a professional manner. His behaviour when he attended at RECA's office on July 12 and 13 2006 and his phone messages to Ms Sharp and M.L. support this allegation.



Mr. Adel did not providing notice of his criminal charges. An industry member must notify RECA immediately of any criminal charges. This was codified in the Rules July 1 2006. Because Mr. Adel did not notify RECA, this is not only a breach of term of registration but also s.40 of the Rules.

#### *Submissions of Industry Member*

The N's qualified for the mortgage on their behalf with their own resources. This was a legitimate application based on the evidence from Mr. Adel and the documentation. There was no evidence that A.N. was coerced and there was no money making scheme. The N's knew Mr. Adel's wife was the owner of the property as they were at the Adel's home when the negotiations were done.

A.N. knew that the condo unit was rented. A.N., who admitted that he knew there was a tenant, initially decided they did not want to move in and decided to keep the tenant. When the N's went to Jencor and provided Jencor with information regarding their mortgage, they misrepresented their situation by not disclosing the information about the tenant. A.N. also testified that Mr. Adel dealt with the tenant and gave him a cheque but the only cheques entered as exhibits are the ones for \$2000 and one for \$4372 which Mr. Adel said were part of a loan. There is nothing about a cheque for rent money. There was no third cheque given to A.N. from Mr. Adel because Mr. Adel did not collect the rent. A.N. was the one responsible for collecting rent. The absence of that cheque goes to A.N.'s credibility.

A.N. gave evidence that they did not know about the CMHC requirements. Mr. Adel told them they had to live in the property for 13 months before they could sell the property. That advice did not have to be in writing and there is no requirement for an industry member to put that in writing. The N's had a lawyer who was under a professional responsibility to tell them about the requirements for an assumption on a CMHC mortgage. A.N. said he arranged the meeting while Mr. Adel says he did not. The only person to confirm that would have been the lawyer who was not presented by the Executive Director. The complaint said that documentation did not include a notation about R.R. being related or connected with the agent. Mr. Adel said he left documentation in a brokerage mailbox which did include disclosure. M.L. did not give any evidence that said the documentation did not contain the disclosure. The N's knew about the connection between Mr. Adel and R.R..

With regards to the down payment, in order to qualify for a CMHC mortgage the buyer had to produce a certain portion of the down payment from their own funds. The Panel saw 2 cheques from A.N. which were used for the purchase price, the initial deposit and the cash to close. The Panel also saw 2 cheques from Mr. Adel - the \$ 2000 one given to A.N. two days after A.N. wrote his first one and the second one quite some time prior to the date that A.N. sent his second cheque to B.H. and which was deposited to A.N.'s account quite some time after he actually sent the funds to B.H.. It is difficult if not impossible to recreate documents that get thrown out, that get destroyed. Mr. Adel testified many times during the proceedings when he was on the stand, both in direct examination and in cross examination, R.R. threw out his files, both real estate and business and that included this particular one which also had documentation with regards to the loan. Mr. Adel did say in his evidence that the entire loan was not repaid by the N's but a substantial portion was. He also explained why he gave the loan to

them. Using money from their own resources for the down payment, the N's were able to use the loan provided by Mr. Adel for other purposes. They were thus able to accomplish two things at the same time.

K.K. is another witness that should have been here but was not called. K.K. was not able to corroborate either on behalf of Mr. Adel or on behalf of the Executive Director. We don't know what the arrangement was or why the tenant moved out. One of the few things we are sure of is that Ms Sharp spoke to R.R. who confirmed she signed the offer to purchase accepting the offer of \$111,000.

With regards to the civil claim between K.K. and Mr. Adel and the certificate of judgment, Mr. Adel gave evidence that was not contradicted that he was not aware of the certificate until it was brought to his attention by Ms Sharp. Another thing that speaks to the credibility of A.N. are the documents regarding the titles (exhibit 2-21) which show the power of attorney signed by an O.A. and witnessed by A.N.. If the O.A. named here was a child, a very young child and that the power of attorney was not signed before A.N. witnessed it, why he would sign as a witness if the other party hasn't signed it yet. Why would he go the next step and say that he saw the person sign and that he was a minor? The O. who signed that power of attorney was an adult – Mr. Adel's nephew and not his son.

There is the documentation that Mr. Adel represented the N's but only Mr. Adel's testimony about the loan. A written agreement for a loan of that kind is not required by law. When it came to answering questions Mr. Adel gave the information he could as he had no records, just recollections. During the interviews, the *Act* allows the investigator to ask relevant questions. There is nothing in the act that prohibits an industry member from saying a question is irrelevant, the industry member is answering the question although the investigator may not like it.

With regards to the H. matters, Mr. Adel did not fail to cooperate with investigation. The civil action, as represented by exhibit 3 – 4, is not related to a trade in real estate and is therefore outside of RECA's jurisdiction and is beyond this panel's jurisdiction. If we look at the dispute note, it is not written by Mr. Adel - it is written by someone else with no evidence that Ms Sharp looked for the author. As well, the T4 was not false. Mr. Adel said he filled in some things and left it to his accountant to fill it in. That money was earned. We do not have the actual claim that was filed with respect to A.H.'s other claim. A.H. was not presented as a witness because he was overseas. There were no steps taken for him to be present.

Mr. Adel does not have a duty to bring in the lawyers to give corroboration. It does not appear that Ms Sharp attempted to contact the lawyer that was representing Mr. Adel on the wage claim. A.H. was not called as a witness with regards to the Alix hotel matter. The only live evidence we had was from Mr. Adel. When a trust is created, it does not have to be in writing - one person can create a trust for many reasons and the reason given by Mr. Adel was as legitimate as any other, that A.H. felt threatened by a family member. The funds were not received as a deposit on the purchase price on the hotel. The money was paid when and as requested by A.H. and that was done, not just the one for \$ 20,000 but others which resulted in the full \$39,000 being paid back one way or the other. Mr. Adel gave evidence and the transcripts are consistent that the money

was there for A.H. when he needed it. The money was mixed in with his other resources but Mr. Adel paid A.H. as requested.

The evidence given by N.T. that a phone call on a speakerphone in a moving call on a major highway took place is problematic. There is no evidence confirming that such a phone call took place. At the end of the trip N.T., A.H. and a third party went to Mr. Adel's residence and went to the door and was presented with a bank draft for \$20,000. How was it possible for R.R. to go to the bank and get a bank draft and get back home to give to A.H. when he came to the door when he didn't know when it would happen? Mr. Adel's evidence should be accepted over N.T.'s. With regards to the offer to purchase which contained both the numbered company and A.H.'s name, the only evidence as to why it happened is evidence from Mr. Adel and it is uncontroverted by any witnesses presented by the Executive Director. There was a business relationship between these two men. A.H. was going to receive 10% of the business and his name was put on the offer to show intention. It is not this panel's jurisdiction to sit in judgment on a private deal with this individual and the company. The offer was not accepted - it was too low. There was no evidence that Mr. Adel created a false document or participated in unlawful activity. The funds were not given to him in trust as a real estate agent. If he had put them in he would have violated the *Act* because the only funds put in are for real estate transactions and this was not. There is no evidence of any misappropriation of trust funds; in fact evidence is to the contrary. The funds were repaid to A.H. one way or the other.

The H. matter also brings us back to the issue of corroboration and Mr. Adel not bringing in counsel to testify that he had been instructed not to talk to anyone - those instructions are protected by solicitor client privilege, whether the investigator accepts those answers or not, those are answers. Mr. Adel acted in good faith and was cooperating with the investigator when he provided him with those answers.

With regards to Mr. Adel's application forms from the time he entered the industry until the time he left, you will see personal information and boxes checked off. Initially the forms did not require former names so initially Mr. Adel did not fill in a former name. After contact with RECA he did. Mr. Adel's birth date was the same except for the last 2 applications. Some government identification showed the birth date as 1957 and some showed it as 1955. Mr. Adel could not get the government to change it. With regards to the question on bankruptcy, Mr. Adel thought it related to his involvement in the industry. Clearly that is not what the question asked but Mr. Adel was not intending to deceive RECA. Bankruptcies and offences under the Import Act show up but are not thought of as criminal. Mr. Adel thought that question had to do with criminal convictions or judgments concerning real estate activities only. As you can see, through 2006 the answers on the number of different forms become more accurate the more contact Mr. Adel has with RECA as to what it wanted on its forms.

With regards to a condition of Mr. Adel's application that he was required to notify the Executive Director in writing immediately, there was no evidence that Mr. Adel was notified of the changes that occurred July 1, 2006 and no documentation was presented. Mr. Adel gave testimony that he was not told. There was no indication as to when Mr. Adel was released. Mr. Adel explained he contacted his lawyer's office and spoke to M. and asked that RECA be advised. He understood a letter would be sent. In the conversation on August 2 with Ms Sharp, J.M. expressed surprise but that is not

uncommon as his assistant does not provide him with information immediately after returning from holiday.

Did Mr. Adel therefore act immediately under the conditions? Right away, right now or it could mean within a reasonable period of time depending upon the circumstances. When you think about being arrested, the first thing you think about is not contacting some regulatory body but your lawyer. By contacting his lawyer and requesting the letter be sent to RECA, Mr. Adel complied in the spirit. Ms Sharp's actions are quick off the mark and unnecessary and reflective of the entire approach RECA was taking with Mr. Adel at that time

With regards to the Bassano hotel documentation, Mr. Adel was negotiating, giving advice as was confirmed by Mr. Ali. Mr. Adel explained why the numbered company was there. The agent from the seller filled in the document. Mr. Ali sent the documents to M.M. He had discussions and was in contact with M.M. who knew not only of Mr. Ali's involvement but also of Mr. Adel's. Mr. Adel's licence condition was being satisfied. Mr. Ali said Esquire was informed by a telephone call from the seller which contradicts M.M. Esquire Management, particularly M.M., knew about this transaction contrary to what he told Ms Sharp.

With regards to the incident in the RECA lobby in July of 2006, Mr. Adel was frustrated and even R.L. stated that his behavior was understandable. He was going through personal pressures, a fatality inquiry and an investigation. He was within his rights to be assertive and demand the letter that was promised to him. R.L. stated that he called the police who attended at the office but there is no corroborating evidence to know if they were actually called and no evidence from the public about what went on.

With regards to the S. matter and the policies regarding documents being handed in to the brokerage, K.W., M.L. and M.M. stated they wanted the documents handed in after the conditions were met and the deal closed. There was no evidence that M.M. changed that policy given the conditions on Mr. Adel's licence. There is no evidence that Mr. Adel did not keep M.M. informed about the matter. Mr. Adel showed the S. offer to Ms Sharp; two days later his authorization status was red and he turned the documents over to M.M.. Mr. Adel did what he was supposed to do and had no further involvement in the transaction. Mr. Adel did not pursue his application for registration when his status became red. He moved to Saskatchewan to work in another industry. It wasn't until September 2007 that this investigation was opened and a letter was sent to his Panorama Hills address. During 2006, Ms. Sharp was aware that Mr. Adel wasn't getting his mail and it was best to contact him by email or telephone. One would have expected a notation to have been made about the best way to contact Mr. Adel. This was not done as Ms. Pickering sent all her letters to the residential address. There were no phone calls, no emails attempting to confirm receipt. RECA had Mr. Adel's email address and he was moving from place to place after October 2006.

None of the questions that Ms. Sharp asked of Mr. Adel regarding his corporations were relevant to any of the investigations. Ms Sharp should have interviewed someone at Jencor, Scotiabank or at least made the effort to contact them.

*Rebuttal of the Executive Director*

Where someone used legal advice to avoid answering questions they are waiving solicitor client privileges. With regard to the complaint in relation to A.H. there were also further cheques that were submitted by the Executive Director that were monies submitted by A.H.

R.L. said he understood Mr. Adel's frustration but he did not say he thought his actions were understandable. He was expressing empathy that Mr. Adel would have wanted the letter sooner than later. With regards to the issue of mail and Mr. Adel's receipt of letters and documents, his assertion was that he was not getting his mail because of his wife and no other reason was given in that regard. Ms Sharp testified that she did have difficulty getting in touch with him; faxes did not go through, emails bounced back and she left messages after October 2006.

There is no duty under any legislation that a RECA investigator interviews absolutely everybody. The goal is to interview all but also be efficient. A.H. was not being here because he moved back to Egypt. The hearing was previously set down when he was available and Counsel had advised Mr. Anderson that A.H. was going back to Egypt.

## **V) FINDINGS AND REASONS**

Based on the evidence given during this hearing, the Panel finds conduct deserving of sanction for 16 of the 23 allegations - 1, 2, 3, 4, 5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 22 and 23, and

The Panel finds no conduct deserving of sanction for 7 of the 23 allegations - 7, 8, 9, 10, 19, 20 and 21 for the following reasons:

### **Allegation 1 Breach of s.7(c) of the Code of Conduct**

*An industry member must be professional in dealings with the public and other industry members. This includes the following*

- (c) *An industry member must not participate in fraudulent or unlawful activities in connection with real estate or mortgage transactions*

This allegation is that Mr. Adel participated in mortgage fraud by using A.N. as a straw buyer. Based on documentary evidence, the balance of probability and the relative credibility of witnesses, the Panel believes mortgage fraud was the intention of the transaction. The Panel accepted A.N.'s evidence that Mr. Adel offered him an opportunity to earn \$4000. The Panel does not believe that the amounts on the cheques written by A.N. for the initial deposit and balance of the down payment were simply coincidentally the same as the amounts on 2 cheques written to A.N. by Mr. Adel. The Panel has seen no credible evidence to support Mr. Adel's testimony that the cheques were a loan from Mr. Adel to A.N. Counsel on behalf of Mr. Adel suggested that if Mr. Adel collected rent from the tenant Wayne, there should have been a third cheque from Mr. Adel to A.N. for transferring of this rent payment. Counsel further suggested that the absence of that cheque spoke to A.N.'s credibility as it meant that Mr. Adel did not collect rent as stated by A.N. The Panel does not accept this leap in logic and deems

the fact that there was no rent cheque immaterial in challenging A.N.'s credibility. In view of the combined evidence, the Panel finds Mr Adel's conduct deserving of sanction.

**Allegation 2** Breach of 2(a) of the Code of Conduct

*Industry members must fulfill their fiduciary duty to their clients. This includes the following:*

- (a) *An industry member must act in the client's best interest.*

Based on documentary evidence such as cheques, notices of arrears and failure to make payments as well as A.N.'s testimony, Mr. Adel did not act in A.N.'s best interest. He involved A.N. in an illegal scheme which ultimately caused A.N. financial hardship. There is no evidence that Mr. Adel informed A.N. of the possible repercussions of allowing their mortgage on the Georgian Village property to be assumed by a third party. This is conduct deserving of sanction.

**Allegation 3** Breach of 2(l) of the Code of Conduct

*Industry members must fulfill their fiduciary duty to their clients. This includes the following:*

- (l) *An industry member must disclose at the earliest practical opportunity, any direct or indirect interest the industry members may have as a result of a business or family association with a potential buyer or seller.*

There was no evidence presented to indicate that Mr. Adel informed the N's that he was married to the seller of the condo. There was no indication on the purchase contract nor was there disclosure on the MLS CREB listings that the seller was related to the real estate associate. Mr. Adel's assertion that the N's knew his wife socially does not imply they knew her as the owner of the Georgian Village property nor does it relieve Mr. Adel of his responsibility to disclose her ownership and his relationship to her in the documentation. This is a breach of duty and conduct deserving of sanction.

**Allegations 4, 5, 6, 12, 23** Breaches of s.7(d) of the Code of Conduct, s.41(h) of the Rules, s.38(4) of the Act

*Industry members must:*

*co-operate fully with, and provide any information requested to, any representative of the Council carrying out their duties and responsibilities under the Act.*

These allegations refer to Mr. Adel's failure to cooperate with numerous RECA investigations. Mr. Adel did not return phone calls or answer letters or emails. It was Mr. Adel's responsibility to let RECA know his whereabouts as he knew he was under investigation. Mr. Adel had the responsibility to keep abreast of any developments in the investigations into his conduct. It would have been reasonable for him to expect correspondence coming from RECA in relations to these matters. In the N. matter, Mr. Adel presented inconsistent testimony and did not provide documentation requested by the investigator. In the H. matter, Mr. Adel was not fully cooperating with RECA even before he stated he wouldn't answer questions because of the civil suit and criminal

proceedings. Further, the Panel contends that even if the money given to Mr. Adel was not specifically intended for the acquisition of real estate, it remains the responsibility of RECA to investigate the matter as 1) A.H.'s name was on the purchase contract 2) Mr. Adel had provided a letter of employment for A.H. to assist in the procurement of a mortgage, which, if the letter was fraudulent meant Mr. Adel was involved in mortgage fraud. Both of these events are real estate related and in the opinion of the Panel this gives the Council authority to investigate. Regarding the Sierra Moreno Mews transaction, Mr. Adel did not provide any of the documentation requested by the investigator and the Panel does not accept Mr. Adel testimony that he did not receive any of the correspondence relating to this investigation as an adequate explanation for his lack of communication with RECA. This is conduct deserving of sanction.

**Allegations 7 – 10** relate to the dealings Mr. Adel had with A.H.

**Allegation 7** Breach of s.18(2) of the *Real Estate Act*

*No industry member shall receive money in the course of carrying on business as an industry member unless, before receiving the money, the industry member has entered into a service agreement with the person who provides the money or on whose behalf it is to be held that expressly acknowledges the trust arrangement between them and sets out the terms on which the money will be received, held and distributed.*

This allegation relates to the dealing of Mr. Adel and A.H.. Documentary evidence is mixed and is not sufficient to prove the \$39k given to Mr. Adel by A.H. was for the express purpose of buying the hotel. Not having A.H.'s testimony and not having a notarized statement of complaint from him makes it impossible to determine if that was in fact the case. Although there are several inconsistencies in Mr. Adel's testimony, the Panel still considers the possibility that the \$39k was given to Adel for safekeeping and finds the evidence is not sufficient to prove otherwise. N.T.'s testimony does not speak to the purpose of the original \$39k, but only to a reimbursement of the \$20k and is not precise enough to prove A.H.'s original intent. Therefore, in view of the lack of definitive evidence, the Panel finds no conduct deserving of sanction.

**Allegation 8** Breach of s.2(b) of the Code of Conduct

*Industry members must fulfill their fiduciary duty to their clients. This includes the following:*

- (b) an industry member must act in accordance with a client's lawful instructions.*

Mr. Adel stated he was buying the hotel for himself. There was no evidence contradicting this fact. There was not sufficient evidence to determine that A.H. was the primary client on this transaction. There was no way to determine the credibility of A.H.'s allegations that he retained Mr. Adel to act as his agent in presenting an offer to purchase the Alix Hotel. There was not sufficient evidence that A.H. provided Mr. Adel with \$39,000 as a deposit for the purchase. The letter from A.H.'s solicitor only reflects what their clients alleged and has little weight as the Panel cannot ascertain if A.H.'s allegations were truthful or not. Therefore the Panel finds no conduct deserving of sanction.

**Allegation 9** Breach of s. 23(d) of the Rules contrary to the s.25 of the *Real Estate Act* (operation of trust money)

*An Associate broker and agent must:*

- (d) *ensure that all transactions and the relevant documentation meet legislative requirements found under the Act, the Bylaws, and the Rules*

As the Panel has found insufficient evidence that the money referenced in allegation 9 was provided to Mr. Adel for the purpose of trading in real estate, the Panel cannot determine that the money was to be kept in trust. Therefore the Panel finds no conduct deserving of sanction.

**Allegation 10** Breach of s.2(a) of the Code of Conduct

*Industry members must fulfill their fiduciary duty to their clients. This includes the following:*

- (a) *An industry member must act in the client's best interest.*

Based on the evidence, the Panel believes all the money given to Mr. Adel by A.H. is accounted for and finds no evidence to the contrary. There is no conduct deserving of sanction

**Allegation 11** Breach of s.23(e) of the Rules

*An Associate broker and agent must:*

- (e) *provide all documentation or trade records required under the Rules to the broker*

The Panel accepted the testimony of M.L., broker of Centry 21 Central Realty Inc. that he never received any documentation from Mr. Adel on the Alix Hotel transaction. Further, the Panel contends that regardless of whom the intended purchaser of the hotel was, the offer constituted documentation to an intended real estate trade and as such the paperwork should have been turned in to M.L. broker of Centry 21 Central Realty Inc. This is conduct deserving of sanction.

**Allegations 13, 14, 15,** Breach of s. 4(d) of the Code of Conduct

*An industry member must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so. This includes the following:*

- (d) *An industry member shall not participate in the creation of a document, or form of communication that the member knows or ought to know is false or misleading*

When filling in RECA application forms, Mr. Adel did not disclose a previous criminal conviction nor did he disclose other names he was known by. Mr. Adel also swore affidavits that he had filled in the application forms correctly and truthfully when this was



not the case. The Panel accepts the license applications, the name change documents, the bankruptcy documents and the criminal court documents to support a finding of conduct deserving of sanction.

**Allegation 16** Breach of s.7(b) of the Code of Conduct

*An industry member must be professional in dealings with the public and other industry members. This includes the following:*

- (b) *An industry member must act fairly, honestly and with integrity when dealing with non-clients.*

When filling in RECA application forms, Mr. Adel did not disclose a previous criminal conviction nor did he disclose other names he was known by. Mr. Adel also swore affidavits that he had filled in the application forms correctly and truthfully when this was not the case. The Panel accepts the license applications, the name change documents, the bankruptcy documents and the criminal court documents to support a finding of conduct deserving of sanction.

**Allegation 17** Breach of s.7 of the Code of Conduct

*An industry member must be professional in dealings with the public and other industry members.*

Testimonies from Mr. Adel and others, that he made a scene at the RECA office, are consistent with Mr. Adel's own demeanour during the hearing proceedings. The Panel considered tapes and transcripts entered in evidence throughout the hearing demonstrating abusive, threatening and unprofessional behaviour by Mr Adel. This is conduct deserving of sanction.

**Allegation 18** Breach of s.7(a) of the Code of Conduct contrary to s.13(i) of the Rules (conditions on a license)

*An industry member must be professional in dealings with the public and other industry members. This includes the following:*

- (a) *an industry member must practice in strict accordance with the Act, Rules, Bylaws and Regulations and any other laws that govern trading in real estate or mortgage transactions in Alberta.*

Based on the testimony of M.M. as well as a recorded conversation between M.M. and Ms Sharp, the Panel believes that Mr. Adel did not keep his broker informed about his transactions nor did he deliver related documents to M.M. in a timely manner. This was required by RECA as part of the issuance of a registration certificate subject to terms, conditions or restrictions. The Panel did not feel it had reliable testimony to decide whether Mr. Adel informed M.M. of the criminal proceedings commenced against him. The Panel does however believe that Mr. Adel made a reasonable attempt to inform the Executive Director of the criminal proceedings against him. Not having met at least one condition of his registration, namely keeping his broker informed of his transactions, Mr. Adel's conduct is deserving of sanction.

**Allegation 19** Breach of s.7(d) of the Code of Conduct

*An industry member must be professional in dealings with the public and other industry members. This includes the following:*

*An industry member must co-operate fully with, and provide any information requested to, any representative of the Council carrying out their duties and responsibilities under the Act.*

The Panel believes that Mr. Adel attempted to provide Myrtle Sharp with information about the criminal charges laid against him. Therefore there is no conduct deserving of sanction.

**Allegation 20** Breach of s.40(3) of the Rules

*In the case of an associate broker or associate, a copy of the notice provided to the executive director must be provided by the associate broker or associate to the broker.*

The Panel did not have sufficient reliable evidence to determine if Mr. Adel informed M.M. of the criminal proceedings as Mr. Adel testified that he did and M.M. testified that he did not. The Panel did not give more weight to one testimony over the other and in the absence of other evidence, the Panel finds no conduct deserving of sanction.

**Allegation 21** Breach of s.41(1)(g) of the Rules

*An industry member must immediately notify, in writing, the executive director when:*

*(g) proceedings pursuant to the Criminal Code are commenced against the industry member*

The Panel finds the term immediately as used in this allegation to be problematic. What is immediately? The Panel reviewed the evidence, and the calendar for 2006. The Panel felt that since Ms Sharp called Mr. Adel on August 2, 2006 to discuss his failure to inform RECA, it is impossible to determine if Mr. Adel would have contacted RECA to inform them in what could reasonably be construed as “immediately”. Therefore this is not conduct deserving of sanction.

**Allegation 22** Breach of s.6(4) of the Rules

*An individual must not trade in real estate or in any way hold himself out as a real estate broker, associate broker, or associate until such times as the individual has been issued a licence and is registered with a brokerage licensed by the Council.*

The purchase contract in the Sierra Morena transaction was enough evidence to find conduct. Mr. Adel testified that he did trade however he also testified he was not aware his license was suspended. The Panel does not accept his lack of awareness as sufficient excuse as it is clearly stated that it is the responsibility of an industry member to check his/her status prior to trading. Mr. Adel’s awareness that he was under numerous investigation would make it even more important for him to stay abreast of his trading conditions. This is conduct deserving of sanction.

## VII) ORDERS

The Hearing Panel requests submissions on sanction by the Executive Director to be provided to Mr. Adel and/or to his legal counsel and the Hearings Coordinator within 21 days of service of this decision. Mr. Adel then has 14 days from that date to provide his submissions to the Executive Director and to the Hearings Coordinator. The Executive Director has 7 days to submit a rebuttal to Mr. Adel's submissions on sanction to Mr. Adel and the Hearings Coordinator.

If no submissions are received by the Executive Director or Mr. Adel within the allocated timeframes, the Hearing Panel will proceed to make a decision with respect to sanction without the benefit of those submissions

This decision was made on 14<sup>th</sup> September, 2010

*Connie Leclair, Chair*

*Brian Klingspon*

*Dennis Shandruk*

## **THE REAL ESTATE COUNCIL OF ALBERTA**

**IN THE MATTER OF** Sections 39(1)(b) and 41 of the  
*Real Estate Act*, R.S.A. 2000, c. R-5

**AND IN THE MATTER OF** a Hearing concerning the conduct of Alman Adel, former real estate associate, registered with the Real Estate Council of Alberta as a real estate associate with Century 21 Central Realty Inc., Century 21 Terrace Real Estate Ltd., Signet Real Estate Ltd. o/a Signet Commercial and Esquire Realty Inc. o/a Esquire Management Group all times material hereto

### **A DECISION OF A HEARING PANEL OF THE REAL ESTATE COUNCIL OF ALBERTA ON SANCTION**

#### **I) INTRODUCTION**

The members of this Hearing Panel are Connie Leclair (Chair), Brian Klingspon and Dennis Shandruk. The Hearing into this matter took place from April 19 – 30, and May 3, 6, 7, 11 and 13, 2010. The Panel issued a written decision of its findings in respect to the Executive Director's allegations of conduct deserving of sanction in this matter on September 14, 2010. The Panel found conduct deserving in 16 of 23 allegations. Following the issuance of that decision, the Panel requested submissions on sanction from the Executive Director and Alman Adel who was represented by legal counsel.

The Decision on Conduct was served upon Mr. Adel on September 15, 2010. On October 18, 2010 Submissions on Sanction from the Executive Director were sent to Mr. Adel. No submissions from Mr. Adel were received within the ordered deadline.

#### **II) SUBMISSIONS**

Counsel on behalf of the Executive Director requested the imposition of the following sanction:

- fines totalling \$63,500.00
- costs of the hearing in the amount of \$152,584 to be paid by Mr. Adel
- a condition that Mr. Adel not be eligible to re-apply to return to the industry for a period of 10 years
- successfully completion of the Real Estate Associate Program prior to re-licensing

Counsel submitted there were several aggravating factors in determining sanction:

- Mr. Adel was sanctioned in 2003 with a fine of \$6000 and a 4 month suspension for illegal conduct and failure to cooperate.
- Mr. Adel was suspended in 2006 for failure to cooperate.
- Mr. Adel was in an agency relationship with the complainant and trust is an essential part of that relationship.

- Where a client relies on an agent and is exploited by the agent for personal gain and is harmed as a result, the reputation of the industry is damaged.
- The complainants were vulnerable due to their reliance on Mr. Adel and their lack of fluency in English.
- Apart from allegations 1, 2, 3, and 22, the other allegations can be characterized as part of Mr. Adel's efforts to hide information from his broker and RECA about his wrongful conduct.

Counsel presented a breakdown of the fine amount requested for each allegation with comparisons from similar cases:

#### Allegation 1

In the Paun and Birch decisions, a sanction of \$10,000 and 4 – 6 month suspensions were ordered with respect to a finding of one instance of participating in fraud. In these cases both industry members cooperated with the investigation. A suspension in this case would have no effect and so a fine of \$15,000 would be appropriate.

#### Allegation 2

By involving the complainant in mortgage fraud, Mr. Adel clearly failed to act in his clients' best interest. In the Birch decision a fine of \$2000 was ratified by a panel for breach of this section. Given previous disciplinary history, counsel suggested a penalty of \$4500.

#### Allegations 3 and 11

For failing to disclose that the owner of the condo was related to him, a fine of \$2,000 for each allegation would be appropriate

#### Allegations 4,5,6,12,17 and 23

For failing to co-operate and for unprofessional behaviour, a fine of \$4,000 for each allegation totalling \$24,000 would be appropriate.

#### Allegations 13, 14,15,16,18

For multiple licensing issues, a fine of \$2,500 per contravention for a total of \$12,500 would be appropriate. Other sanctions for similar cases have been a \$ 2,000 fine and suspension.

#### Allegation 22

Historically, fines for unauthorized activity ran from \$1,000 - \$3,000. In the Mattson and Joshi decisions, fines of \$5,000 were levied as both were aware they were unauthorized but acted in any event. Counsel submitted that Mr. Adel was aware he was unauthorized which is an aggravating factor and a fine of \$4,000 would be appropriate.

Counsel submitted that the costs of the hearing should be borne by the industry member and outlined the factors to be considered. A detailed breakdown of the costs in this matter was submitted to the Panel for a total amount of \$152,584.

### **III) FINDINGS AND REASONS**

The Panel found Mr. Adel had conduct deserving and the misconduct was of a serious nature. The Panel agrees with the Executive Director's submission that the fine should be a substantial one.

The Panel believes that a fine in the amount of \$63,500 is warranted due to the aggravating factors outlined in Counsel for the Executive Director's submissions on sanction. The Panel looked at the comparisons made for each allegation with the other cases that were provided and agrees with the amounts as set out. The Panel believes Mr. Adel's conduct was for his own gain. The specific deterrence in 2003 of a \$6000 fine and 4 month suspension for similar conduct did not deter Mr. Adel from repeat conduct. Conduct which harms a member of the public is especially troubling.

The Panel was provided with a detailed itemization of the costs involved in this matter and considered all factors when making their decision. Even in areas where the panel did not find sufficient evidence to uphold the allegation, significant additional work was required on the part of RECA and therefore the costs should still be borne by Mr. Adel for his lack of cooperation.

### **IV) ORDERS**

After the Panel's findings of conduct deserving of sanction, and after due consideration of the submissions made by the parties the Panel hereby orders the following sanctions which it considers to be reasonable, namely that:

1. Mr. Adel pay fines totalling \$63,500.00
2. Mr. Adel pay costs in the amount of \$152,584.00
3. Mr. Adel shall not be eligible to re-apply for authorization to return to the industry for a period of 10 years from the date of this decision.
4. Prior to re-licensing, Mr. Adel must successfully complete the Real Estate Associate Program and pass the provincial exam.

This decision was made on 20<sup>th</sup> December, 2010

*Connie Leclair, Chair*

*Brian Klingspon*

*Dennis Shandruk*

