

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

**AND IN THE MATTER OF Norman C. Smith, Designated Representative
Jayd Realty (1994) Ltd. o/a Century 21 Jayd Realty**

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Norman C. Smith, Designated Representative of Jayd Realty (1994) Ltd. o/a Century 21 Jayd Realty, is deserving of sanction and/or whether he breached the requirements of the Act or Rules prescribed pursuant to the Act.
2. The Executive Director and Norman C. Smith have agreed to resolve the allegations against Norman C. Smith on the terms and conditions set out below.

AGREED STATEMENT OF FACTS

3. Norman C. Smith became authorized August 26, 1988 as a salesperson with Belbeck Real Estate Ltd. Norman C. Smith has been continuously registered to trade in real estate since that date. On October 1, 1994, Norman C. Smith was registered as an agent with 603538 Alberta Limited and has remained registered as an agent since that date, with Jayd realty (1994) Ltd. from November 4, 1994 to August 21, 1997 and with Century 21 Jayd Realty since August 21, 1997. On June 28, 1994 Norman C. Smith became the Designated Representative for Jayd Realty (1994) Ltd. o/a Century 21 Jayd Realty and has continuously held that position since that date.
4. There is no history of discipline on file for Norman C. Smith.
5. Norman C. Smith was at all material times Designated Representative for Jayd Realty (1994) Ltd. o/a Century 21 Jayd Realty.

Re: L.J. - 1998 Salesperson Registration Form

6. L.J. was at all material times registered as a salesperson by Jayd Realty (1994) Ltd. o/a Century 21 Jayd Realty.
7. On September 2, 1998, L.J. completed a Real Estate Salesperson Registration form, including an affidavit, pursuant to the *Real*

Estate Act. By the said affidavit, L.J. _____ solemnly swore that she had read and understood all of the questions and statements contained in the form and that all of her answers were true and correct to the best of her knowledge, information and belief.

8. Question 3 in the said form was:

3. In the past FIVE years, have you or has any business you owned, or participated in as a director or officer, had any judgment(s) rendered against you or the business in relation to a trade in real estate, fraud or breach of trust?

9. L.J. _____ answered "no" to question 3 although the true answer to the question was "yes" as such a judgment had been rendered against Jayd Realty Ltd. and L.J. _____ personally on September 4, 1997.

10. L.J. _____, as a party to the action in which the said judgment was obtained, knew of its existence and now states that the correct response to question 3 was "yes".

Re: L.J. _____ - Transfer Salesperson's Certificate

11. On or about May 19, 1999, L.J. _____ submitted to Real Estate Council of Alberta a Transfer Salesperson's Certificate.

12. Question 3 in the said certificate was:

3. In the past FIVE years, have you or has any business you owned, or participated in as a director or officer, had any judgment(s) rendered against you or the business in relation to a trade in real estate, fraud or breach of trust?

13. L.J. _____ answered "no" to question 3 although the true answer to the question was "yes" as such a judgment had been rendered against Jayd Realty Ltd. and L.J. _____ personally on September 4, 1997.

14. L.J. _____, as a party to the action in which the said judgment was obtained, knew of its existence and now states that the correct response to question 3 was "yes".

Re: M.G. _____ - 1998 Salesperson Registration Form

15. M.G. _____ was at all material times employed as a salesperson by Jayd Realty (1994) Ltd. o/a Century 21 Jayd Realty.

16. On September 2, 1998, M.G. _____ completed a Real Estate Salesperson Registration form, including an affidavit, pursuant to the *Real Estate Act*. By the said affidavit, M.G. _____ solemnly swore that

she had read and understood all of the questions and statements contained in the form and that all of her answers were true and correct to the best of her knowledge, information and belief.

17. Question 3 in the said form was:

3. In the past FIVE years, have you or has any business you owned, or participated in as a director or officer, had any judgment(s) rendered against you or the business in relation to a trade in real estate, fraud or breach of trust?

18. M.G. _____ answered "no" to question 3 although the true answer to the question was "yes" as such a judgment had been rendered against Jayd Realty Ltd. on September 4, 1999.

19. M.G. _____ knew of the existence of the said judgment and now states that the correct response to question 3 was "yes".

Liability of Norman C. Smith

20. Norman C. Smith was at all material times aware of the existence of the said judgment and should have reviewed L.J.'s _____ completed Real Estate Salesperson Registration form, L.J.'s _____ completed Transfer Salesperson's Certificate and M.G.'s _____ completed Real Estate Salesperson Registration form more carefully to ensure their accuracy.

21. By reason of the matters described herein, Norman C. Smith's conduct is deserving of sanction and as Designated Representative for Jayd Realty (1994) Ltd. o/a Century 21 Jayd Realty, Norman C. Smith is responsible pursuant to Rule 8(7)(b) of the *Real Estate Act* Rules.

SETTLEMENT TERMS

1. In settlement of these issues Norman C. Smith agrees to:

- a. pay a fine in the amount of \$1,000 to the Real Estate Council of Alberta; and
- b. pay costs in the amount of \$200 to the Real Estate Council of Alberta.
- c. the fine and costs, referred to in "a" and "b" above, shall be paid as follows:
 - i. \$600 immediately; and
 - ii. \$600 on or before November 19, 1999.

2. Norman C. Smith is aware that a copy of this Consent Agreement will be placed in his file and may be reviewed and considered in any future disciplinary proceedings.
3. Norman C. Smith is aware that the contents of this Consent Agreement may be published by the Real Estate Council of Alberta.
4. Norman C. Smith acknowledges that he has been given the opportunity to seek the advice of legal counsel and acknowledges that he is agreeing to the terms of the settlement of his own free will.
5. Norman C. Smith hereby waives any rights that he may have under the Act or otherwise to any review, appeal or other judicial proceeding involving the matters referred to herein.
6. These settlement terms are intended to resolve all matters described herein and subject to the approval of the Hearing Panel, the Executive Director will take no further steps in these matters against Norman C. Smith including the initiation of any proceedings before the Real Estate Council of Alberta or the courts in this regard.

IN WITNESS WHEREOF the undersigned agrees and accepts the terms and conditions of this settlement this 27 day of September, 1999.

Signed and delivered)
 in the presence of)
)
)
)
)
 "C.F.")
 _____)
 Witness to the signature)
 Of Norman C. Smith)

"Norman C. Smith"

NORMAN C. SMITH

CANADA) I, M.F.
)
) (name of witness),
PROVINCE OF ALBERTA) of the City of COLD LAKE
)
) in the Province of Alberta
TO WIT:) MAKE OATH AND SAY:

- SWORN BEFORE ME at the City)
of COLD LAKE)
in the Province of Alberta this 27)
day of SEPTEMBER, 1999)
) "M.F."
) _____
) '(signature of witness)
)
)
)
)
)
)
"C.F.")
A Commissioner for Oaths in and)
for the Province of Alberta)

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

Real Estate Council of Alberta

"J.P."
Witness to the signature
of Bob Myroniuk

Per: "Bob Myroniuk"
BOB MYRONIUK
Executive Director

Recommendation Approved "D.H."

Recommendation Denied _____

DATED at the City of Calgary, in the Province of Alberta this 5 day
of October, 1999.

Real Estate Council of Alberta

Per: "David Hicks"
Hearing Panel Chairperson