

**REAL ESTATE COUNCIL OF ALBERTA**  
**NOTICE OF ADMINISTRATIVE PENALTY**

**To: Coldwell Banker- Ontrack Realty  
Attn. Lynn Richardson, Broker  
Unit G, 2085 50 Ave  
Red Deer, AB T4N 1Z4**

In accordance with section 83 and the Bylaws of the *Real Estate Act* R.S.A. 2000 c. R-5, (Act), the Executive Director of the Real Estate Council of Alberta (RECA) has determined that there is sufficient evidence of conduct deserving of sanction in regard to the brokerage, Coldwell Banker- Ontrack Realty (Coldwell), at all relevant times a licenced real estate brokerage, to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows.

Information indicates that on September 30, 2009, real estate associate S.O., registered to Coldwell, provided you, on behalf of the brokerage, funds for the purpose of renewing her registration for the 2009/2010 licensing period. At the time of receipt S.O. had not provided the brokerage with a complete registration application for the 2009/2010 licensing period.

On October 1, 2009, S.O.'s registration was not renewed. No confirmation was made by either S.O. or you, and S.O. was permitted to carry out the activities of an authorized real estate associate.

For the period of October 1, 2009 to September 27, 2010, S.O. traded in real estate and held herself out as an authorized real estate associate registered to Coldwell. During this period S.O. completed 7 trades in real estate for which she received \$16,815 dollars in remuneration.

On September 28, 2010, you became aware S.O. was not authorized to trade in real estate, at which time RECA was notified.

The Executive Director is of the opinion that the above noted conduct is in violation of section 50 of the Rules made pursuant to the Act which sets out that:

*50 A real estate brokerage must not:*

*(b) employ a person to trade in real estate unless that person meets the requirements of the Act, Regulations, Rules and Bylaws, and all levies, fees, premiums, fines, administrative penalties and other amounts that are payable under or pursuant to the Act, Regulations, Rules, or Bylaws or under any predecessor enactments in respect of that person have been paid;*

In accordance with section 39 and section 83 of the Act and Part 4 of the Act's Bylaws, an Administrative Penalty in the amount of **\$4,000.00** has been assessed against the brokerage for this contravention.

The circumstances of this matter indicate the following aggravating and mitigating factors were considered:

### ***Aggravating Factors***

- You have been a real estate broker since 1997 and ought to have been aware of licensing requirements
- You failed to confirm S.O. was authorized to trade in real estate
- The unauthorized activity continued for almost a one year period
- S.O. received remuneration from the brokerage for unauthorized activity
- Unauthorized activity has an effect on public confidence, places consumers at risk and harms the integrity of the industry.

### ***Mitigating Factors***

- You contacted RECA upon learning S.O. was conducting unauthorized activity
- The conduct took place in 2009 and has not been repeated

Payment of this Administrative Penalty shall be accepted by the Executive Director as complete satisfaction of the amount of the penalty and no further proceedings under Part 6 of the Act will be taken against you in respect of the contravention. A person who pays an Administrative Penalty may not be charged under the Act with an offence in respect of those contraventions.

This sum of **\$4,000.00** is payable to RECA within thirty (30) days of the date of issuance of this Notice of Administrative Penalty. If you fail to pay the amount set out in this notice, the Executive Director may commence legal action against you to recover the amount owing in respect of the Administrative Penalty as a debt due to RECA.

If you dispute this Notice of Administrative Penalty in accordance with section 83.1 of the Act, you may appeal it to a Hearing Panel. You will be given a full opportunity consistent with procedural fairness and natural justice to present

evidence before the Hearing Panel and make representations in relation to the contravention.

If you have any questions in regard to this Notice of Administrative Penalty, please contact Carla Sasley, Investigator, at RECA.

DATED this 25<sup>th</sup> day of October, 2011.

**REAL ESTATE COUNCIL OF ALBERTA**

Per: *Joseph Fernandez*, for  
Bob Myroniuk  
Executive Director