

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: Simon M. T. Evison, Mortgage Associate
TMG The Mortgage Group Alberta o/a
TMG
304 – 3016 5th Ave NE
Calgary, AB T2A 6K4

In accordance with s. 39 and s. 83 and the Bylaws of the *Real Estate Act*, R.S.A. 2000 c. R-5 (the "**Act**"), the Executive Director of the Real Estate Council of Alberta has determined that there is sufficient evidence of conduct deserving of sanction in regard to you, Simon M. T. Evison (hereinafter "Mr. Evison"), at all relevant times, mortgage associate, registered with TMG The Mortgage Group Alberta o/a TMG (hereafter "TMG"), to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows:

On or about May 2009, L.T., Royal Bank of Canada ("RBC") Mobile Mortgage Specialist forwarded you information of eight borrowers for you to obtain mortgages on their behalf. L.T. provided you with all necessary information for you to submit the files to different lending institutions. You did not meet any of these eight applicants.

You provided borrower disclosures to these applicants through L.T. The borrower disclosures stated that you as an intermediary would fulfill the following duties: "*My duties to you, the Borrower, are to act competently and honestly and to disclose all relevant information associated with mortgage dealing.*"

You did not fulfill any of these duties on behalf of the applicants.

The Executive Director is of the opinion that the above noted conduct is in violation of Section 41(d) of the Rules made pursuant to the *Real Estate Act* which sets out that:

41 *Industry members must:*

(d) *fulfill their fiduciary obligations to their clients;*

In accordance with s. 39 and s. 83 of the Act and Part 4 of the Act's Bylaws, an Administrative Penalty in the amount of **\$3,500** has been assessed against you for this contravention.

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 offense in respect of those contraventions.

This sum of **\$3,500** is payable to the Real Estate Council of Alberta 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 the Real Estate Council of Alberta.

If you dispute this Notice of Administrative Penalty in accordance with s. 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 Veronica Rosito, Investigator, at the Real Estate Council of Alberta.

DATED this 20th day of October, 2010.

REAL ESTATE COUNCIL OF ALBERTA

Per:

Bob Myroniuk
Executive Director