

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: Monte Farron Jensen, Broker
Sutton Group Triton Taber Realty
5217 47 Avenue
Taber, AB T1G 1R5

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 you, Monte Farron Jensen at all relevant times a real estate broker, registered with Sutton Group Triton Taber Realty (Sutton), presently registered with Sutton, to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows.

On or around September 30, 2010, you advised RECA you attempted to renew registration online for your brokerage, associates and yourself. You state you were unable to complete the registration renewal and were aware that you were required to contact RECA directly to renew all registrations.

On or around September 30, 2010, you contacted RECA and were told the registrations for your brokerage, associates and yourself were not renewed. You were advised supporting documentation was required in order to process the renewals.

Between October 1, 2010 to October 4, 2010, you did not contact RECA, and the brokerage licence and required associates registrations were not renewed. At this time you state you were aware this was the case and that you failed to ensure all associates and/or associate brokers, as the case may be, were notified to cease all trade activities. Additionally, you continued to permit your brokerage to advertise to the public without indicating the brokerage was not licensed to trade in real estate.

On October 4, 2010, an associate employed by the brokerage entered into a listing agreement, on behalf of your brokerage, with a vendor to list the property located at 5814 55 St, Taber, AB. At this time you permitted the brokerage to represent the vendors of the property and to market the property using the MLS® system.

You did not direct your associate to cancel her listing, and the listing remained active from October 5, 2010 until January 24, 2011. The seller was not informed by your associate or the brokerage that Sutton and your associate were unauthorized to trade in real estate from October 4, 2010 to October 14, 2010.

As part of ongoing communications with RECA, on October 5, 2010, you sent an email to RECA notifying RECA your brokerage had entered into a listing agreement on October 4, 2010. The email also stated you would advise the board of the situation and take appropriate action.

The Lethbridge Real Estate Board was never contacted by you regarding the listing by your associate, nor were they advised your brokerage, associates, and yourself were unauthorized from October 1, 2010, to October 14, 2010.

On October 15, 2010, all supporting licence and registration documents were received by RECA, and the renewals for your brokerage, associates and yourself were completed.

As part of the renewal process you provided RECA with a sworn affidavit dated October 15, 2010, on which stated: "*Neither myself, nor my associates, T.N. and J.N. have been trading in real estate since September 30, 2010.*"

The Executive Director is of the opinion that the above noted conduct is in violation of section 42(a) of the Rules made pursuant to the Act which sets out that:

42 Industry members must not:

(a) make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so;

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 **\$5,000** has been assessed against you for this contravention.

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

Aggravating Factors

- Your actions were deliberate. You were aware of the facts and you deliberately provided false and misleading information to RECA.
- The false and misleading information was provided on various occasions over a two week time period.
- You provided false and misleading information to attempt to escape detection for unauthorized activities.

- The false information provided to RECA was by way of an affidavit.
- The provision of false or misleading information during the application or renewal cycle undermines RECA's responsibility to act in the public interest
- The provision of false and misleading information by industry members undermines the integrity of the industry
- There is a need to deter this behavior

Mitigating Factors

- There is no history of previous discipline

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 **\$5,000** 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 7th day of July, 2011.

REAL ESTATE COUNCIL OF ALBERTA

Per:

Bob Myroniuk
Executive Director