

**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 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 October 1, 2010 you were aware that you, Sutton and Sutton's associates and associate brokers were not authorized to trade in real estate as a real estate broker.

You failed to immediately notify all associates and/or associate brokers, as the case may be, to cease trading in real estate as a real estate broker. Additionally, you continued to permit your brokerage to advertise to the public and hold itself as a real estate broker.

On October 4, 2010, T.N., an associate employed by Sutton entered into a listing agreement, on behalf of Sutton, with a vendor to list the property located at 5814 55 St, Taber, AB. Upon becoming aware of this you permitted Sutton and T.N. to continue to represent the sellers 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 contacted or informed by your associate or by Sutton that Sutton was unauthorized to trade in real estate at this time.

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.

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

*42 Industry members must not:*

*(b) participate in fraudulent or unlawful activities in connection with the provision of services or in any dealings;*

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***

- You are a licensed broker and are aware of the requirements for renewals of registration under the Act
- Your participation in the unlawful activity was deliberate. You were aware your associates were unauthorized and were trading in real estate as real estate brokers while unauthorized and failed to take the necessary steps to prevent the unauthorized activity, to notify the clients of Suttons unauthorized status and to cancel the listing
- Unauthorized activity places the public at risk
- Errors and Omissions insurance would not have been in place for your brokerage, associates and yourself
- Suttons clients would not have been protected by the real estate assurance fund
- There is a need to deter this behavior

### ***Mitigating Factors***

- The unlawful activity was an isolated incident.
- You have now taken full responsibility for the unlawful activity
- There is no prior discipline or warnings relating to unauthorized activity

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 7<sup>th</sup> day of July, 2011.

**REAL ESTATE COUNCIL OF ALBERTA**

Per:

*Bob Myroniuk*  
Executive Director