

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

**To: Mr. Michael M McNeil, Broker**  
Esquire Realty Inc. o/a Esquire Management Group  
200, 12406-112 Avenue  
Edmonton / Alberta  
T5M 2S9

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, Michael McNeil (Mr. McNeil), at all relevant times a Broker, registered with Esquire Realty Inc. o/a Esquire Management Group (Esquire), to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows.

At all relevant times you were a director and majority shareholder of Esquire Realty Inc. o/a Esquire Management Group.

Information gathered indicates that on or about March 02, 2010, a judgment was rendered against Esquire Realty Inc. in relation to Provincial Court of Alberta (Civil) Action No. P0890105545. This civil claim was in relation to unpaid commissions owing in regards to a trade in real estate and damages as a result of the unpaid commissions.

Information gathered indicates that on or about December 28, 2009, a judgment was rendered against Esquire Realty Inc. in relation to Provincial Court of Alberta (Civil) Action No. P0890105283. This civil claim was in relation to unpaid commission and management services fees owing in regard to trades in real estate.

On September 28, 2010, you completed a Broker Application for Registration renewal. Question 19 required you provide a "Yes" or "No" answer to the following question: "Have you or has any business you owned or participated in as a director, officer, or manager had any judgments rendered against you or the business in relation to: a trade in real estate; dealings in mortgages; acting as an appraiser; fraud; breach of trust; misappropriation or theft?" It was answered with

a “No”. The application further required you swear an affidavit confirming all questions were answered truthfully and completely.

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***

- 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
- There is history of previous warnings and discipline
- You have been authorized to trade in real estate since 2000 and have been authorized as a real estate broker for over 9 years

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 Corrie Olafson, Professional Conduct Review Officer at RECA.

DATED this 25th day of November, 2011.

**REAL ESTATE COUNCIL OF ALBERTA**

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