

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

**To: Terry Shawn, Broker**  
**Compass Brokerages Inc.**  
**1610 – 17 Ave SW**  
**Calgary, Alberta T2T 0E3**

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, Terry Shawn, at all relevant times a real estate broker, registered with Foxbridge Development Ltd (Foxbridge), presently registered with Compass Brokerages Inc., to assess an Administrative Penalty. The evidence giving rise to the Executive Director’s decision is as follows:

On March 3, 2009, Foxbridge ceased operations.

On September 30, 2009, you as former broker for Foxbridge provided to RECA an accountant report made in accordance with section 37(1)(b) of the Rules made pursuant to the Act (Closing Audit).

The Closing Audit contained a sworn declaration signed by you. Your declaration in the Closing Report indicated that the declaration was made “conscientiously believing it to be true and knowing it to be of the same force and effect as if made under oath”. The Closing Report was portrayed as being notarized on February 9, 2009 by N.O. a Notary Public from the State of Arizona.

The notarized portion of the September 30, 2009 Closing Audit was copied from an accounting report you provided to RECA on February 17, 2009.

On November 12, 2009, at RECA’s request, you provided the original Closing Audit. The sworn declaration of the original Closing Audit is distinctly different to the Closing Audit you faxed to RECA on September 30, 2009.

On your January 21, 2011 response to RECA’s investigation you failed to describe and explain your fabrication of the false and misleading document. You suggested that the problem was simply a mistake by N.O.

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 *Real Estate 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 **\$3,500.00** has been assessed against you for this contravention.

In determining the amounts outlined herein, the following aggravating and mitigating factors were considered:

**Aggravating Factors:**

- You deliberately created a false document with the intent of deceiving RECA.
- You have not taken responsibility for your actions.
- Your response to RECA during the investigation process failed to disclose the full extent of your actions.

**Mitigating Factors:**

- The information intended to be attested through the false declaration was truthful.

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 **\$3,500.00** 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 Winnie Leung, Investigator, at RECA.

DATED this 28 day of April, 2011.

**REAL ESTATE COUNCIL OF ALBERTA**

Per:

*Joseph Fernandez*, for  
Bob Myroniuk  
Executive Director