

IN THE MATTER OF THE *Real Estate Act*, R.S.A. 2000, c. R- 5

AND IN THE MATTER OF Gerald Bradley Williamson, an Associate, registered with ArTeam Realty Inc. o/a Royal LePage ArTeam Realty

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Gerald Bradley Williamson (hereinafter "Mr. Williamson"), Associate, registered with ArTeam Realty Inc. o/a Royal LePage ArTeam Realty, is deserving of sanction and/or whether he breached the requirements of the *Real Estate Act* (hereinafter "the Act") or the former Rules prescribed pursuant thereto (hereinafter "the Rules").
2. The Executive Director and Mr. Williamson agree to resolve all matters against Mr. Williamson on the terms and conditions set out herein.

AGREED STATEMENT OF FACTS

1. At all material times, Williamson was a registered associate with ArTeam Realty Inc. o/a Royal LePage ArTeam Realty ("ArTeam Realty").
2. Williamson acted for N.N. in relation to two real estate transactions involving properties located at #401, 12618 – 152nd Ave, Edmonton Alberta ("Property 1") and #101, 9525 – 162 Ave Edmonton, Alberta ("Property 2").
3. N. N. and his wife contacted Williamson in mid-2005, regarding the sale of Property 1.
4. On June 23, 2005, Williamson prepared a listing contract for Property 1, which was signed by N.N. and his wife. The asking price for Property 1 was \$146,900, with commission of 7% on the first \$100,000 and 3% on the balance.
5. Williamson stated that he establishes the sale price of properties by providing clients with comparables of properties currently listed and properties that have sold. Williamson acknowledges that he did not turn in the comparables for Property 1 to his brokerage. The policy of ArTeam Realty requires that all documents, including comparables, be turned in to the brokerage.
6. The sale of Property 1 closed mid-September 2005 and the N's moved into Property 2 on September 30, 2005.
7. Williamson states that N.N. contacted him on or about the end of January 2006 and N.N. told him that his wife had passed away. Williamson visited N.N. a couple weeks later

and N.N. advised that he was considering selling Property 2. N.N. also said that he was interested in renting Property 2 back from the buyer.

8. According to Williamson, he returned to N.N.'s a couple days later with comparables to give to N.N. N.N. asked Williamson how much he thought Property 2 was worth, and Williamson stated that based on the comparables he thought around \$130,000. Williamson acknowledges that the comparables he provided to N.N. were not turned into the brokerage.
9. N.N. later contacted Williamson confirming he wanted to sell Property 2 and Williamson met with N.N. to commence the process. N.N. advised Williamson that he did not want to sign a listing agreement because he did not want the inconvenience of having to show the place to interested buyers. N.N. asked Williamson to find someone he knew or someone through his office to buy Property 2. Williamson told N.N. it would be difficult to find a buyer without listing the property on MLS, but that is how N.N. wanted to proceed. Williamson also asked N.N. how much he wanted to sell for and N.N. told him \$135,000.
10. Williamson states that at this meeting he explained to N.N. the concept of dual agency, because Williamson or someone from his office would be the only ones to bring a client. Williamson did not at this time have N.N. sign a dual agency consent form.
11. Williamson states that he mentioned the exclusive listing with N.N. at brokerage meetings. Towards the end of April 2006, T.G. also an associate with ArTeam Realty, told Williamson he may have a client interested in Property 2. T.G.'s client, J.F., ultimately made an offer and met with N.N. The parties negotiated back and forth, with J.F. remaining firm at \$128,000 and N.N. remaining firm at \$130,000. J.F. states that she recalls N.N. wanting to rent the condominium after selling it.
12. Williamson acknowledges that he did not turn a copy of J.F.'s offer into the brokerage and that he did not retain a copy of the offer. Williamson states that this first offer was dead prior to the offer from N.K.
13. N.K. found out about Property 2 from his brother, W.K. who was an associate with ArTeam Realty. N.K. states he was looking for an investment property in the price range of \$100,000 to \$150,000. W.K. states N.K. was particularly interested in Property 2 because N.N. wanted to rent the condominium following the sale.
14. On May 7, 2006, after the offer and negotiations with J.F. concluded, an agency disclosure form was signed by Williamson and N.N. stating Williamson may act as a dual agent in possible real estates transactions in addition to his role as N.N.'s agent. Williamson states that this form evidences the fact that dual agency was discussed with N.N.; however, Williamson acknowledges that the form did not disclose that N.N. was entering into a dual agency situation, in that any persons making offers on Property 2 would be clients of the same brokerage that Williamson was an associate at.
15. On May 8, 2006, a Residential Real Estate Purchase Contract (the "Purchase Contract") was executed with N.K. as buyer and N.N. as seller for the price of \$130,000.

16. Negotiations between N.K. and N.N. took place over 2 to 3 days, with N. K.'s initial offer being \$125,000. N.N.'s asking price was \$135,000, and the parties settled at \$130,000. W.K. states there was an Offer to Purchase reflecting the negotiations of price, however, he could not locate it. Williamson states he does not recall whether there was another Offer to Purchase completed prior to the Purchase Contract dated May 8, 2006.
17. The Purchase Contract did not reflect the conditions of sale proposed by N.N., as there was no additional term stating N.N.'s condition of renting Property 2 following completion of the sale. Also, the Purchase Contract and other transaction documents only reflected N.K. as buyer and not also W.K.
18. On May 8, 2006, an addendum signed by N.K. and N.N. disclosed that N.K. and his agent, W.K., are brothers.
19. The two deposits required for the purchase of Property 2 were paid for with cheques in W.K.'s name. W.K. states the deposits were a loan to N.K., as his brother did not have cheques. W.K. and N.K. state the loan was paid back.
20. An undated mortgage application for Property 2 lists N.K. and W.K. as co-applicants. On May 9, 2006, the mortgage broker pulled credit reports on both N.K. and W.K. A Mortgage Approval dated May 10, 2006 lists N.K. and W.K. as co-applicants and provides approval for a mortgage in the amount of \$125,920.12. In a letter to the Real Estate Council of Alberta ("RECA"), dated May 13, 2010, Williamson acknowledges that W.K. told him he was co-signing the mortgage and that he would also be on title.
21. On May 18, 2006, a residential tenancy agreement was entered between N.K. and N.N. Cheques written by N.N. to N.K. show that rent was \$1,000 per month.
22. An undated extension of subject to condition document for the Property 2 transaction was signed by N.K. and N.N., providing an extension on conditions from May 12, 2006 to May 24, 2006.
23. On May 23, 2006, N.K. signed a notice of satisfied condition.
24. An undated change of possession and adjustment date document was signed by N.K. and N.N., changing the possession date from June 1, 2006 to June 15, 2006.
25. On May 29, 2006, N.N. signed a transfer statement transferring the property to N.K. and W.K. for consideration in the amount of \$130,000.
26. On June 9, 2006, a mortgage was signed by N.K. and W.K. as joint tenants of Property 2.

CONCLUSION

By reason of the matters described herein, Mr. Williamson's conduct is deserving of sanction as a result of the following breaches:

- a) Breach of *Code of Conduct* (1999) Section 3(b), an industry member must use his best efforts to ensure the role of the industry member in a real estate transaction is clearly understood by the parties to the transaction, by failing to obtain a written informed dual agency consent prior to engaging in negotiations with a client of a co-associate at ArTeam Realty.
- b) Breach of *Real Estate Act* Rule 23(e), failure to provide all documentation and trade records to the broker, by failing to remit offers to purchase and all comparative market analysis documents in real estate transactions.
- c) Breach of *Code of Conduct* (1999) Section 6(c), an industry member shall not participate in the creation of any contract or document that the member knows or ought to know is confusing or does not reflect any agreements already in place, by:
 - i. participating in the creation of documents that did not properly reflect that there were two purchasers of the property; and
 - ii. not clearly documenting the agreement between the parties that as a condition to selling the property N.N. would be able to rent the property from N.K. and W.K. for a period of 1 year.

SETTLEMENT TERMS

1. In settlement of these issues, Mr. Williamson will immediately pay to the Real Estate Council of Alberta a fine in the amount of \$3,000, together with costs in the amount of \$500.
2. Mr. Williamson agrees that as a condition of his authorization to trade in real estate, he will, within six (6) months of ratification of this Agreement by the Hearing Panel, successfully complete the AREA course Ethical Practice in Real Estate, or a similar course at the sole discretion of the Executive Director.
3. Mr. Williamson acknowledges that he has been given the opportunity to seek the advice of legal counsel and acknowledges that he has carefully read the terms of settlement and is aware of and understands the contents thereof and is agreeing to the terms of settlement of his own free will.
4. Mr. Williamson is aware that a copy of the Consent Agreement will be placed on his file and may be reviewed and considered in any future disciplinary proceedings.
5. Mr. Williamson is aware the Real Estate Council of Alberta may publish the contents of this Consent Agreement.
6. Mr. Williamson hereby waives any rights he may have under the Act or otherwise to a review, hearing, appeal or other judicial proceeding involving the matter referred to herein.

7. These settlement terms are intended to resolve all matters described herein and, subject to the approval of the Hearing Panel, the Executive Director will take no further action under the Act or before the courts in this regard.

IN WITNESS WHEREOF the undersigned agree and accept the terms and conditions of this settlement this 8th day of June, 2011.

Signed and delivered)
in the presence of:)

D.B.)
Witness to the signature)
of Gerald Bradley Williamson)

GERALD BRADLEY WILLIAMSON

The Executive Director recommends to the Hearing Panel the proposed terms of settlement based on the Agreed Statement of Facts.

REAL ESTATE COUNCIL OF ALBERTA

D.C.
Witness to the signature
of Bob Myroniuk

Per: *Bob Myroniuk*
Executive Director

Recommendation Approved X

Recommendation Denied

DATED at the City of Calgary, in the Province of Alberta this 12th day of
July, 2011.

REAL ESTATE COUNCIL OF ALBERTA

Per: *Cheryl King*
Hearing Panel Chairperson

AFFIDAVIT OF EXECUTION

CANADA)	I, D.B. of
)	
PROVINCE OF ALBERTA)	the City of Edmonton, in the Province of Alberta
)	
TO WIT:)	MAKE OATH AND SAY:

1. THAT I was personally present and did see Gerald Bradley Williamson, named in the within instrument, who is personally known to me to be the person named therein, duly sign and execute the same for the purpose named therein.
2. THAT the same was executed at the City of Edmonton in the Province of Alberta, and that I am the subscribing witness thereto.
3. THAT I know the said party and he is in my belief of the full age of eighteen years.

SWORN BEFORE ME at the City)	
of Edmonton, in the Province of)	
Alberta this 8 day of)	
June, A.D. 2011)	
)	<i>D.B.</i>
)	
)	
)	
)	
<i>R.M.</i>)	
A COMMISSIONER FOR OATHS)	
in and for the Province of Alberta)	