

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

**To: Kimberley Leone**  
**Harvey Real Estate Company Ltd.**  
**872 Concession St.**  
**Hamilton, ON L8V 1E5**

In accordance with section 83 and the Bylaws of the *Real Estate Act* RSA 2000 c R-5, (Act), the Executive Director of the Real Estate Council of Alberta (RECA) is of the opinion that Kimberley Leone (Ms. Leone) and Harvey Real Estate Company Ltd. (Harvey), has contravened section 17 of the *Act* and hereby assesses an Administrative Penalty in the amount of **\$7,500.00**. The evidence giving rise to the Executive Director's decision is as follows:

Information gathered indicates you were at all relevant times the registered broker of Harvey, a licensed brokerage in the province of Ontario. During the period of September 30, 2010 to March 15, 2011, you and Harvey entered into service agreements with: L., B., C., S., M. and H., B., G., D., B., M., L., L., S., R., S., E., J., D., I., E., S., P. and A., F. and O., S., N., and S.; all residents of Alberta, for the purpose of marketing their Alberta properties using the Multiple Listing System administered by the Realtors Association of Hamilton- Burlington. These listings were included and advertised on the Harvey's website at <http://www.harveyrealestate.ca>. During the relevant period you were not authorized to trade in real estate as a real estate broker in Alberta.

On January 13, 2011, you were sent correspondence from RECA advising your activities required an authorization and were requested to provide information relevant to your conduct.

Between January 13, 2011 and March 15, 2011, you continued to market properties in Alberta contrary to RECA's notification and failed to respond to RECA's request for information during this period.

RECA acknowledges that on or around March 15, 2011, you ceased the unauthorized activity in Alberta.

On July 14, 2011, you provided RECA with the previously requested information regarding your activities in Alberta.

The Executive Director is of the opinion that the above noted conduct is in violation of section 17 of the *Real Estate Act* which sets out that:

17 No person shall

- (a) trade in real estate as a real estate broker,
  - (b) deal as a mortgage broker,
  - (c) act as a real estate appraiser, or
  - (d) advertise himself or herself as, or in any way hold himself or herself out as, a mortgage broker, real estate broker or real estate appraiser
- unless that person holds the appropriate authorization for that purpose issued by the Council.

In accordance with section 83 of the *Act* and Part 4 of the Bylaws, the Executive Director hereby assesses an Administrative Penalty in the amount of **\$7,500.00** against you.

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

### ***Aggravating Factors***

- You have been a real estate broker in Ontario since May, 1987 and ought to have been aware of other jurisdictions' licensing requirements.
- RECA provided you with multiple clear oral and written warnings of the authorization requirements and resulting consequences for unauthorized trading in real estate as a real estate broker.
- You received remuneration in the amount of \$1,490.00 as a result of the unauthorized activities.
- You continued to market properties in Alberta after becoming aware you were unauthorized.
- Unauthorized activity has an effect on public confidence, places consumers at risk and harms the integrity of the industry.
- You conducted a significant number of trades in real estate as a real estate broker.

### ***Mitigating Factors***

- You have ceased marketing properties in Alberta.
- At this time RECA has not received any complaints from residents from the Province of Alberta regarding your services as a real estate broker.

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 **\$7,500.00** 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 Carla Sasley, Investigator, at RECA.

DATED this 25<sup>st</sup> day of October, 2011.

**REAL ESTATE COUNCIL OF ALBERTA**

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