

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

To: **Shane Herter**  
**Re/Max Medalta Real Estate**  
**#109 1235 Southview Drive SE**  
**Medicine Hat, Alberta T1B 4K3**

In accordance with s. 39 and s. 83 and the Bylaws of the *Real Estate Act*, R.S.A. 2000 c. R-5 (the "**Act**"), the Executive Director of the Real Estate Council of Alberta has determined that there is sufficient evidence of conduct deserving of sanction in regard to you, Shane Herter (hereinafter "**Mr. Herter**"), at all relevant times, real estate associate, registered with Medalta Realty (1989) Ltd. o/a Re/Max Medalta Real Estate (hereafter "**Re/Max Medalta Real Estate**"), to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows:

On June 9, 2007, Shane Herter met with T.E. to enter into a listing agreement for the sale of a property located in Frontier, Saskatchewan that was owned by [the "Company"] and R.E. and T.E. ("the E.'s"). Mr. Herter and the E.'s executed an Agricultural Real Estate Listing Contract for the property. The listing contract was between the E.'s and Re/Max Medalta Real Estate with Shane Herter as the authorized representative of the brokerage. The listing contract stipulated the term of the contract to be from June 9, 2007 with an expiry date of December 15, 2007.

On December 4, 2007, Mr. Herter prepared a Real Estate Listing Contract Extension/Amendment Agreement for the E.'s property. The agreement extended the listing to March 30, 2008 and lowered the listing price of the property. Mr. Herter wrote "[T.E.]" on the agreement as the seller and signed as the witness.

T.E. stated that he never agreed to extend the listing nor did he agree to reduce the list price of the property. T.E. stated that Mr. Herter had signed papers without his permission.

At no time did Mr. Herter prepare an amendment to the written service agreement stating that he had authority to sign on behalf of T.E. nor was any such agreement put in writing or signed by any of the relevant parties.

The Executive Director is of the opinion that the above noted conduct is in violation of section 43(2)(c) of the Rules made pursuant to the Act which sets out that:

- 43(2) Every written service agreement shall:
- (c) provide that any amendment or addition to the terms of the agreement shall be in writing and signed by the relevant parties;

In accordance with s. 39 and s. 83 of the Act and Part 4 of the Act's Bylaws, an Administrative Penalty in the amount of **\$1,000.00** has been assessed against you for this contravention.

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 offense in respect of those contraventions.

This sum of **\$1,000.00** is payable to the Real Estate Council of Alberta 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 the Real Estate Council of Alberta.

If you dispute this Notice of Administrative Penalty in accordance with s. 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 Victoria Woodworth-Lynas, Case Presenter, at the Real Estate Council of Alberta.

DATED this 11<sup>th</sup> day of June, 2010.

**REAL ESTATE COUNCIL OF ALBERTA**

Per:

*Bob Myroniuk*  
Executive Director

Cc: Peter Vanderham, Broker  
Re/Max Medalta Real Estate