

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: **James Edward Radchenko, real estate associate**
c/o Excellence Real Estate Edmonton Ltd. o/a Re/Max Excellence
17718 – 64 Avenue
Edmonton AB T5T 4J5

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, James Radchenko (hereinafter “**Mr. Radchenko**”), at all relevant times, real estate associate, registered with Excellence Real Estate Edmonton Ltd. o/a Re/Max Excellence (hereafter “**Re/Max Excellence**”), to assess an Administrative Penalty. The evidence giving rise to the Executive Director’s decision is as follows:

On or about February 1, 2009, Mr. Radchenko attended a property with a prospective buyer (the “Buyer”). The property was owned by S.H. (the “Seller”) who was unrepresented by a licensed industry member. During his attendance at the Seller’s property, Mr. Radchenko elicited and received confidential information from the Seller concerning the Seller’s motivation and financial information. Before eliciting the information from the Seller or upon receiving the Seller’s confidential information, Mr. Radchenko failed to disclose his role in the transaction in writing to the Seller, including the nature of services Mr. Radchenko would provide, whether Mr. Radchenko was acting in the trade on behalf of any other person, any conflict of interest that may exist, and any other facts that may be likely to influence the Seller’s decision. Mr. Radchenko then prepared a Residential Real Estate Purchase Contract on behalf of the Buyer with an offer to purchase the Seller’s property. The Seller accepted this offer on the same date.

The Executive Director is of the opinion that the above noted conduct is in violation of section 55(1) of the *Rules* made pursuant to the *Real Estate Act*, R.S.A. 2000 c. R-5 which sets out that:

- 55 (1) Before eliciting or as soon as possible upon receiving confidential information from any person concerning that person’s real estate needs, motivation, financial qualifications or in any event before entering into a service agreement, an industry member must disclose in writing to that person:

- (a) the nature of the services the industry member will provide;
- (b) whether the industry member is acting in the trade or anticipated trade on behalf of any other person, in any capacity;
- (c) any conflict of interest that may exist; and
- (d) any other facts that may be likely to influence the person's decision.

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 **\$1,500.00** 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 **\$1,500.00** 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, or Flora Fok, Legal Services Administrator, at the Real Estate Council of Alberta.

DATED this 13th day of September, 2010.

REAL ESTATE COUNCIL OF ALBERTA

Per:

Bob Myroniuk
Executive Director

Cc: Ayaz Bhanji, broker
Re/Max Excellence