

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: **Marcelle West, Real Estate Associate Broker**
Seabolt Holdings Ltd. o/a Sutton Group – Canwest
242, 755 Lake Bonavista Drive SE
Calgary, AB T2J 0N3

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, Marcelle West (hereinafter “**Ms West**”), at all relevant times, real estate associate broker, registered with Seabolt Holdings Ltd. o/a Sutton Group – Canwest (hereafter “**Sutton Group**”), to assess an Administrative Penalty. The evidence giving rise to the Executive Director’s decision is as follows:

On or about April 14, 2008, B.W. and N.W. (“the Sellers”) entered into a Residential Real Estate Listing Contract with Sutton Group Canwest with Ms West as the authorized representative of the brokerage for the sale of their property in Sundre, Alberta. On or about April 22, 2008, Ms West was contacted by B.S. (the “Buyer”). He advised Ms West that he wanted to make an offer to purchase the Sellers’ property. On or about April 22, 2008, Ms West prepared a Residential Real Estate Purchase Contract. The representative shown for both the Buyer and Sellers was Sutton Group-Canwest with Marcelle West as the associate broker authorized registered with the brokerage. The offer to purchase was accepted on the same date. On or about April 23, 2008, the Buyer and Sellers signed a Dual Agency with Limitations Agreement with Sutton Group-Canwest.

The Executive Director is of the opinion that the above noted conduct is in violation of section 59(1) of the Rules made pursuant to the Act (effective October 1, 2006 to September 30, 2008) which sets out that:

- 59(1) If the situation arises where a brokerage represents a seller with whom it has an agency relationship and a buyer with whom it has an agency relationship is interested in the seller’s property, in order to facilitate the purchase and sale of the property, the buyer and the seller and the brokerage may enter into a written dual agency agreement with respect to that property.

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 22nd day of July, 2010.

REAL ESTATE COUNCIL OF ALBERTA

Per: *K. Bacon* for
Bob Myroniuk
Executive Director

Cc: H.M., Broker
Sutton Group - Canwest