

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

AND IN THE MATTER OF Len Freisz, real estate associate registered
with Grande Prairie Associates Realty Ltd. o/a Re/Max Grande Prairie, Re/Max
Grande Prairie

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Len Freisz, at all relevant times real estate associate registered with Grande Prairie Associates Realty Ltd. o/a Re/Max Grande Prairie, is deserving of sanction and/or whether he breached the requirements of the *Real Estate Act* (the “**Act**”) or the Rules prescribed pursuant thereto (the “**Rules**”) or the Code of Conduct prescribed pursuant thereto (the “**Code of Conduct**”).
2. The Executive Director and Len Freisz agree to resolve all matters against Len Freisz on the terms and conditions set out herein.

AGREED STATEMENT OF FACTS

3. Len Freisz (“Mr. Freisz”) was, at all relevant times, a real estate associate registered with Re/Max Grande Prairie.
4. Mr. Freisz has no prior discipline history with the Real Estate Council of Alberta.
5. As a result of a complaint received from T.F., the Real Estate Council commenced an investigation into Mr. Freisz’s conduct.
6. T.O. and T.F. jointly owned a property at 10403 – 96 A Street Grande Prairie.
7. T.O. and T.F. were separated and T.F. no longer lived in the property.
8. Mr. Freisz was a long time friend of T.O. and knew she and T.F. were separated and not living together at the time of the event.
9. Mr. Freisz knew that both T.O. and T.F. were listed on the title of the property.
10. On or about January 9, 2007, Mr. Freisz went to the property and met with T.O. to discuss a possible listing of the property. T.F. was not present at this meeting.

11. Mr. Freisz stated that T.O. told him she had a legal agreement with T.F. and had the authority to dispose of the property.
12. Mr. Freisz did not confirm that such an agreement existed in writing and did not obtain a copy of the legal agreement.
13. On or about January 9, 2007, Mr. Freisz entered into a listing contract with T.O. The seller was listed as: T.O. The seller's signature on the contract was that of T.O. Neither T.F.'s name nor signature appeared on the contract.
14. The listing contract was witnessed and signed on behalf of the brokerage by Mr. Freisz.
15. On or about January 10, 2007 Mr. Freisz listed the property on the MLS system noting only T.O. as the seller.
16. On January 10, 2007, D.B., a real estate associate registered with Re/Max Grande Prairie, showed the property to her client D.R.
17. On or about January 10, 2007 an offer to purchase was prepared by D.B. on behalf of her client. The offer contained the name of the seller as T.O.
18. Mr. Freisz prepared a counteroffer that did not indicate an expiry date on the offer/counteroffer.
19. On or about January 19, 2007 the offer was reported as a final sale to the Grande Prairie Real Estate Board by Mr. Freisz's brokerage. T.O. was listed as the seller.
20. T.F. drove by the property near the end of the month of January and saw the real estate sold sign and called D.B. for details.
21. This phone call was the first indication D.B. had that T.F. was part owner and had not been notified about the listing of the property.
22. At the time of final acceptance, neither D.B. nor her client was made aware that T.F.'s signature was missing on the Offer to Purchase nor that the Offer to Purchase required T.F.'s authorization.

CONCLUSION

23. By reason of the matters described herein, Mr. Freisz's conduct is deserving of sanction in that he:

(a) Failed to provide competent service, contrary to section 41(b) of the *Real Estate Act Rules*.

- Mr. Freisz did not confirm that an agreement existed in writing between T.O. and T.F. and did not obtain a copy of the agreement.

(b) Failed to provide competent service, contrary to section 41(b) of the *Real Estate Act Rules*.

- Mr. Freisz did not indicate an expiry date on the Residential Real Estate Listing Contract.

Settlement Terms

24. It is agreed that the following mitigating factors are relevant to the assessment of fines in this case:

- i. Mr. Freisz was cooperative and forthcoming throughout the investigation into this matter and has taken full responsibility for his actions.
- ii. Mr. Freisz has agreed to forgo the time and expense of a hearing, saving witnesses the inconvenience and stress of attending at a hearing of the matter, by entering into a Consent Agreement.
- iii. The purchaser was willing to cancel the Offer to Purchase and did not suffer any financial hardship.

25. It is further agreed that the following aggravating factors are relevant to the assessment of fines in this case:

- Mr. Freisz has been registered as a real estate associate since 1997 and was an experienced associate.

In settlement of the foregoing contraventions, it is agreed that the fines are as follows:

(a) Rule 41(b)	\$3,000
(b) Rule 41(b)	\$1,500
Total	\$4,500

26. Len Freisz also agrees to pay costs in the amount of **\$500.00**.

27. Len Freisz agrees that as a condition of his authorization to trade in real estate, he will successfully complete, within 6 months of the ratification of this Consent Agreement, the Contract Law portion of Section 3 of Phase 2 of the REAP program or a similar course at the sole discretion of the Executive Director. He will notify the Real Estate Council of Alberta upon completion of the educational requirement.
28. Len Freisz acknowledges that he has been given an opportunity to seek the advice of legal counsel and acknowledges that he is agreeing to the terms of settlement of his own free will.
29. Len Freisz is aware that a copy of this Consent Agreement will be placed on his file and may be reviewed and considered in any future disciplinary proceedings.
30. Len Freisz is aware that the Real Estate Council of Alberta may publish the contents of this Consent Agreement.
31. Len Freisz hereby waives any rights he may have under the *Real Estate Act* or other legislation or otherwise to a review, hearing, appeal, or other judicial proceeding involving the matter referred to herein.
32. 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 *Real Estate Act* or before the courts in this regard.

AFFIDAVIT OF EXECUTION

CANADA)
)
PROVINCE OF ALBERTA) I, M.F. of
Alberta) the City of Grande Prairie in the Province of
TO WIT:)
) MAKE OATH AND SAY:

1. THAT I was personally present and did see Len Freisz, named in the annexed 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 Grande Prairie, 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 Grande Prairie in the Province of)
Alberta this 19 day of)
October, 2011.)
)
) *M.F.*
) (signature of witness)
)
)
)
)
J.J.)
A Commissioner for Oaths in and)
for the Province of Alberta)