

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

**AND IN THE MATTER OF Kulwinder Singh Kang, real estate associate
registered with 666716 Alberta Ltd. o/a All-Banners Realty**

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Kulwinder Singh Kang, at all relevant times a real estate associate registered with 666716 Alberta Ltd. o/a All-Banners Realty (“All-Banners”) 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**”).
2. The Executive Director and Kulwinder Singh Kang (“Mr. Kang”) agree to resolve all matters against Mr. Kang on the terms and conditions set out herein.

AGREED STATEMENT OF FACTS

3. Mr. Kang has been licensed as a real estate associate since March 1, 2006, to the present. He has been registered with All-Banners throughout that time.
4. Mr. Kang has no discipline history.
5. This matter came to the attention of the Executive Director upon Mr. Kang informing RECA that he had been convicted of a criminal offence and had appealed. The Executive Director requested further information and as a result of that information the Executive Director commenced an investigation under Part 3 of the Real Estate Act into the conduct of Mr. Kang.
6. On July 21, 2009, Mr. Kang was charged under the Criminal Code of Canada with an offence.
7. On September 23, 2009, Mr. Kang completed the Associate / Associate Broker Application for Registration. The form instructs as follows:

If you are making an application for renewal of your registration certificate these questions apply only to any and all situations and/or events that have

taken place **SINCE THE DATE OF YOUR LAST APPLICATION**. Please read each of the following questions carefully and answer truthfully.

8. Mr. Kang answered Question 21 as follows:

Have any proceedings pursuant to the Criminal Code of Canada been commenced against you? "No"

9. Mr. Kang then completed the Affidavit attached to this Application. The Affidavit instructs as follows:

Note: All questions must be answered truthfully and completely. Making a false statement on this affidavit constitutes a criminal offence and is punishable by law. Any affidavit containing false or misleading information may result in the refusal of the application and suspension or cancellation of any authorization issued thereupon.

10. In the Affidavit Mr. Kang swore as follows:

I, Kinder Kang of the City of Edmonton in the province of Alberta, Do solemnly swear I have read and understand all questions and statements. All information on this application is true.

11. In reliance on the contents of the Application Mr. Kang's registration was renewed by RECA for the period October 1, 2009, to September 30, 2010.

12. On February 8, 2010, Mr. Kang was convicted of an offence.

13. On February 26, 2010, Mr. Kang filed with the court notice of his appeal of the conviction and on March 9, 2010, his sentence was stayed pending the appeal.

14. On March 16, 2010, Mr. Kang sent a letter advising RECA of the charge, his appeal and the stay pending the appeal.

15. On June 17, 2010, Mr. Kang's appeal of the conviction was successful and a verdict of not guilty was entered on the charge.

CONCLUSION

16. By reason of the matters described herein, Kulwinder Singh Kang's conduct is deserving of sanction in that he acted recklessly in making a representation which was inaccurate and which misled a person at RECA contrary to section 42(a) of the Rules.

SETTLEMENT TERMS

17. It is agreed that the following mitigating factors are relevant to the assessment of fines in this case:
 - i. Mr. Kang has no prior disciplinary history.
 - ii. Mr. Kang cooperated fully with the investigation.
 - iii. Mr. Kang has admitted his conduct and entered into this Agreement thereby avoiding the time, expense and inconvenience to witnesses.
18. It is further agreed that the following aggravating factors are relevant to the assessment of fines in this case:
 - i. Reckless swearing of false information is serious conduct.
19. In settlement of the foregoing contraventions, it is agreed that the sanction will be a **fine of \$2000.00** and a **suspension of his authorization to trade in real estate for 1 month**.
20. Mr. Kang also agrees to pay costs in the amount of **\$500.00**.
21. Mr. Kang agrees to complete, within 6 months of the ratification of this Consent Agreement, the **Ethical Practices in Real Estate** offered by the Alberta Real Estate Association or a similar course at the sole discretion of the Executive Director.
22. Mr. Kang undertakes to advise RECA forthwith upon completion of this education requirement.
23. Mr. Kang 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.
24. Mr. Kang 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.
25. Mr. Kang is aware that the Real Estate Council of Alberta may publish the contents of this Consent Agreement.
26. Mr. Kang 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.

27. 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.

IN WITNESS WHEREOF the undersigned agree and accept the terms and conditions of this settlement this 21st day of April, 2011

Signed and delivered)
in the presence of)
)
C.W.)
Witness to the signature) *Kulwinder Singh Kang*
of Kulwinder Singh Kang)

The Executive Director recommends to the Hearing Panel the proposed terms of settlement based on the Agreed Statement of Facts.

REAL ESTATE COUNCIL OF ALBERTA

D.C.) Per: *Bob Myroniuk*
Witness to the signature) Executive Director
of Bob Myroniuk)

Recommendation Approved X

Recommendation Denied _____

DATED at the City of Calgary, in the Province of Alberta this 26th day of May , 2011.

REAL ESTATE COUNCIL OF ALBERTA

Per: *Marsha Graham*
Hearing Panel Chairperson

Cc: Drew Saly
666716 Alberta Ltd. o/a All-Banners Realty

AFFIDAVIT OF EXECUTION

CANADA)	I, <u>C.W.</u>
)	of the City of Edmonton
PROVINCE OF ALBERTA)	in the Province of Alberta
)	
TO WIT:)	MAKE OATH AND SAY:

1. THAT I was personally present and did see Kulwinder Singh Kang, 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 Edmonton, 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 Edmonton, in the Province of)	
Alberta this 21 st day of)	
April, 2011.)	
)	
)	<i>C.W.</i>
)	(signature of witness)
<i>D.B.</i>)	
A Commissioner for Oaths in and)	
for the Province of Alberta)	