

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

AND IN THE MATTER OF Meno Lopes, then real estate broker registered with Elfa Real Estate Inc. and now real estate associate broker registered with Seventh Level Management Ltd. o/a Keller Williams Realty South

INTRODUCTION

1. The Executive Director of the Real Estate Council of Alberta conducted an investigation into whether the conduct of Meno Lopes, at all relevant times real estate broker registered with Elfa Real Estate Inc. ("**Elfa Real Estate**") [currently registered as a real estate associate broker with Seventh Level Management Ltd. o/a Keller Williams Realty South] is deserving of sanction and/or whether he breached the requirements of the *Real Estate Act* R.S.A. 2000, c. R-5 (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 Meno Lopes agree to resolve all matters against Meno Lopes on the terms and conditions set out herein.

AGREED STATEMENT OF FACTS

3. Meno Lopes ("**Mr. Lopes**") was, at all relevant times, registered as a licensed real estate broker with Elfa Real Estate, in the town of De Winton, in the Province of Alberta.
4. There is no discipline history.
5. Mr. Lopes had the physical office for Elfa Real Estate in his home in De Winton, Alberta.
6. The fiscal year end of Elfa Real Estate as reported by Elfa Real Estate to the Real Estate Council of Alberta was May 31st.
7. In 2003, Elfa Real Estate failed to submit the fiscal year end accounting reports within the required 90 days. The report was subsequently submitted to RECA along with the required late fee.
8. In late 2004, Mr. Lopes was intending on relocating to the United States in 2005 and therefore planning to shut down Elfa Real Estate. Mr. Lopes stated he communicated this to the associates registered with Elfa Real Estate in late 2004 and early 2005.

9. In early 2005, Mr. Lopes separated from his wife. When Mr. Lopes moved to an apartment, he left behind all of his brokerage records at his house.
10. His wife attempted to contact him on various occasions to pick up the boxes containing the brokerage records. Mr. Lopes never returned these phone messages nor did he return to his former house where his wife continued to reside to retrieve the boxes containing the brokerage records.
11. Mr. Lopes has never retrieved the brokerage records.
12. In or around May, 2005, Mr. Lopes and Elfa Real Estate ceased actively trading in real estate although both licenses remained active.
13. In 2005, Elfa Real Estate failed to submit the fiscal year end accounting reports within the required 90 days.
14. Mr. Lopes' licence expired on September 30, 2005 as well as Elfa Real Estate's licence.
15. In a letter dated October 13, 2005, a Compliance Audit Administrator with RECA wrote to Mr. Lopes and requested he provide the closing audit report in accordance with s.8(2)(b) of the Rules on or before October 31, 2005.
16. RECA never received the closing audit report for Elfa Real Estate or the fiscal year end report for Elfa Real Estate for 2005. Mr. Lopes never notified the executive director that he was leaving the industry or that his brokerage was ceasing to carry on business.

CONCLUSION

17. By reason of the matters described herein, Meno Lopes' conduct is deserving of sanction in that he:
 - (a) failed to keep records and books of account of his dealings and trades and accounting records for the required 3 years after they came into existence, contrary to s.25(9) of the *Real Estate Act* R.S.A. 2000, c. R-5
 - i) He abandoned all the records for his brokerage when he moved into an apartment and left the boxes containing the brokerage records at his estranged wife's house and did not return to retrieve the records after repeated requests from his estranged wife.

- (b) failed to ensure that the business of the brokerage was carried out competently and in accordance with the Act, the Bylaws and these Rules, contrary to s.21(1)(e) of the Rules (effective October 1, 1999 to September 30, 2006) made pursuant to the *Real Estate Act* R.S.A. 2000, c. R-5
 - i) As the broker of Elfa Real Estate, he did not immediately or otherwise notify the executive director in writing or otherwise that the brokerage, Elfa Real Estate, was ceasing to carry on the business of a brokerage, contrary to s.8(2)(a) of the Rules made pursuant to the *Real Estate Act* R.S.A. 2000, c. R-5.
 - ii) As the broker of Elfa Real Estate, he did not provide the executive director with an accountant's report on the status of the brokerage's trust account within 30 days of ceasing to carry on business, contrary to s.8(2)(b) of the Rules made pursuant to the *Real Estate Act* R.S.A. 2000, c. R-5.

SETTLEMENT TERMS

- 18. In settlement of the foregoing contraventions, it is agreed that the fines for the breaches are assessed as follows:

(a)	s.25(9) of the Real Estate Act	\$2,500.00
(b)	s.21(1)(e) of the Rules	\$1,000.00
- 19. It is further agreed that Meno Lopes will pay costs in the amount of \$1,000.00.
- 20. In summary, Meno Lopes will pay immediately to the Real Estate Council of Alberta a fine in the amount of \$3,500.00, together with costs in the amount of \$1,000.00 for a total of \$4,500.00.
- 21. Meno Lopes agrees that as a condition of his authorization to trade in real estate, he will, within six (6) months of the ratification of this Consent Agreement by the Hearing Panel, successfully complete the Real Estate Brokerage course (part of the Alberta Real Estate Association's Real Estate Brokers' Program) offered by the Alberta Real Estate Association, or a similar course or courses at the sole discretion of the Executive Director.
- 22. Meno Lopes 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.

23. Meno Lopes 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.
24. Meno Lopes is aware the Real Estate Council of Alberta may publish the contents of this Consent Agreement.
25. Meno Lopes hereby waives any rights he may have under the Act or otherwise to a review, hearing, appeal or other judicial proceeding involving the matter referred to herein.
26. 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 Act or before the courts in this regard.

AFFIDAVIT OF EXECUTION

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

1. THAT I was personally present and did see Meno Lopes, 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 Calgary, 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 Calgary, in the Province of)
Alberta this 31st day of)
March, 2010.)
)
) M.W.
) (signature of witness)
)
)
J.M.)
A Commissioner for Oaths in and)
for the Province of Alberta)