

Private and Confidential

23 November 2011

**Letter of Reprimand Pursuant to Section 39 of the
*Real Estate Act***

In accordance with section 39 of the *Real Estate Act*, R.S.A. 2000 c. R-5 (Act), the Executive Director of the Real Estate Council of Alberta (RECA) has determined that there is sufficient evidence of conduct deserving of sanction in regard to you, [{"Industry Member"}] at all material times, a real estate broker registered with [{"the Brokerage"}], presently registered with [{"the Brokerage"}], to issue a letter of reprimand. The evidence giving rise to the Executive Director's decision is as follows.

Information received indicates [{"the Brokerage"}] Policy and Guidelines Manual, regarding the "Guarantee Sales Program", states: "It is up to the agent, not the brokerage, to post the 5% performance bond to the trust account."

The legislation provides that only a brokerage can enter into a guaranteed sale agreement:

When a brokerage performs a guaranteed sale it must place 5% of the total purchase price into a separate trust account and disburse it only in accordance with the terms of trust as set out by the section 20 of the Act;

The Executive Director believes that this conduct is in contravention of Section 51(1) (d) of the Rules made pursuant to the Act which sets out that:

51(1) A real estate broker must:

(d) ensure the business of the brokerage is carried out competently and in accordance with the Act, Regulations, Rules and Bylaws;

The Executive Director believes that this is conduct deserving of sanction but also believes this matter can be dealt with by way of this Letter of Reprimand.

If you dispute this Letter of Reprimand, in accordance with section 40.1(2) 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 Letter of Reprimand, please contact Carla Sasley, Investigator at 403-685-7940

REAL ESTATE COUNCIL OF ALBERTA

Joseph Fernandez, for
Bob Myroniuk
Executive Director