



**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.

On or about July 2010, your associate, A.W., advertised a “Buy Back Guarantee” program (the guaranteed sale program) on the website [(“website”)]. The advertisement was authored from the perspective that the program was “his” or “his team’s” program. This guaranteed sales program was not a brokerage incentive and any resulting guaranteed sales would not be made or administered by the brokerage.

On or around December 21, 2010, RECA sent A.W. and yourself a “Notification of Commencement of an Investigation Under the *Real Estate Act*” stating there were possible concerns from an incentive perspective and from a guaranteed sales perspective.

On or around January 11, 2011, A.W. sent a response to RECA’s notification indicating that he had reviewed the template information on his website to see how the information may have been misleading to the public and has since removed any information that may be misinterpreted by the public. However, the website continued to advertise the guaranteed sales program. The guaranteed sales program continued to be offered and administered by someone other than the brokerage and was not a brokerage incentive.

On or about February 1, 2011, you sent a response to RECA indicating you reviewed A.W.’s website and found it in compliance with respect to the “Guarantee” offer.

On or about May, 2011, RECA reviewed the website. The website continued to indicate that the guaranteed sales program was administered and offered by someone other than the brokerage and was not a brokerage incentive.

The Executive Director believes that this conduct is in contravention of Section 51(1)(d) and (e) 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*
- (e) ensure there is an adequate level of supervision for associate brokers or associates, as the case may be, within the brokerage and employees who perform duties on behalf of the brokerage;*

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