

JANUARY 11, 2006

TO ALL REAL ESTATE BROKERS, AUTHORIZED OFFICIALS AND SALESPERSONS



NOTICES AND TRANSACTIONS

Over the past year the Manitoba Securities Commission has been dealing with a number of complaints that involve the failure of the salesperson to report all real estate transactions to their employer. For your information reference is made to the following sections of the Real Estate Brokers Act regarding this matter.

Permitted trading by officials and salesmen.

15(3) Subject to subsection (1), an authorized official or salesman may trade in real estate as a principal or on behalf of a company of which he is a director and may place advertisements for the purpose of effecting any such trade if

(a) any sale or lease, not of a type exempted by subsection 41(1), is made through a registered broker;

(b) he notifies his employer of each proposed trade before entering into it;

Report to employer.

15(5) Every authorized official and salesman shall report to his employer every transaction or trade effected or made by him on behalf of his employer as soon as he enters into it, and the employer shall record it in his books.

With respect to the above it is recommended that all brokers implement office policies to ensure that all transactions are reported.

Also, with the current trend in the industry for salespersons to operate under the "Team" concept it has come to the attention of the Commission that the prime salesperson who has been working with licensed and unlicensed assistants may have been paying commissions directly to the licensed assistant. Your attention is directed to section 15(6) of the Real Estate Brokers Act which reads,

Officials and salesmen to be paid by employer only.

15(6) No authorized official or salesman shall collect or attempt to collect any remuneration or reward in respect to a transaction in real estate from any other person than his employer.

In effect for a licensed assistant to be paid from anyone other than their employing broker is a violation of the above section. This would not apply to an unlicensed assistant.

The Commission is issuing a warning that anyone discovered to have either failed to report any transaction to their broker or a salesperson having made payment of remuneration to licensed assistants are in violation of the Real Estate Brokers Act which could result in disciplinary proceedings being taken against both the broker and salesperson.

Please ensure that all registered authorized officials and salespersons receive a copy of this notice.

W. D. Baluk
Registrar
The Real Estate Brokers Act