

**FINANCIAL SERVICES TRIBUNAL**

In the matter of *Real Estate Service Act* S.B.C.2004, C42 and the *Real Estate Act* R.S. B.C. 1996 C397 As Amended and in the matter of an Appeal to the Financial Services Tribunal pursuant to the *Financial Institutions Act* R.S.B.C. 1996 C141

BETWEEN:

BELLA DANIELS

APPELLANT

AND:

REAL ESTATE COUNCIL OF BRITISH COLUMBIA AND  
THE SUPERINTENDENT OF REAL ESTATE

RESPONDENTS

**APPEAL DECISION**

Chair: Dale R. Doan LLB, Member, Financial Services Tribunal

Bella Daniels, Self-represented  
Jessica Gossen, Counsel for the Real Estate Council of British Columbia  
Richard Fernyhough, Counsel for the Superintendent of Real Estate

Date: July 19, 2007

## INTRODUCTION

This is an appeal from the decision of the Real Estate Council of British Columbia (the “**Council**”) dated November 28, 2006 and written by the Discipline Hearing Committee Chair (the “**Decision**”). The Decision ruled that:

1. The Appellant Bella Daniels (the “**Appellant**”) had misconducted herself within the meaning of section 31(1)(c) of the former *Real Estate Act* in that:
  - (a) she misrepresented to another licensee that there was an accepted offer on one of the units to be sold which she knew was untrue;
  - (b) she permitted an unlicensed assistant, namely, George Tumpach, to perform activities on her behalf for which a license was required;
2. The Appellant was negligent within the meaning of section 9.12 of Regulation 75/61 under the former *Real Estate Act* in that she:
  - (a) failed to identify George Tumpach as being an unlicensed assistant in her advertisements contrary to the Real Estate Council advertising guidelines;
  - (b) failed to deliver the Contract of Purchase and Sale and Notice and Disclosure dated December 3, 2003 to her agent in a timely manner;
3. The Appellant was incompetent within the meaning of section 9.12 of Regulation 75/61 under the former *Real Estate Act* in that she:
  - (a) distributed advertising to the public in which she published the name of the owner of the units to be sold without the consent of the owner;
  - (b) acted as a limited dual agent in two transactions in which she was the buyer without withdrawing as the agent for the sellers and without ensuring that the sellers were afforded an opportunity to seek independent legal advice or advice from another agent.

The Decision of Council through its Discipline Hearing Committee decided as follows in terms of penalty:

- A. To suspend the license of the Appellant for 70 days;
- B. As a condition of continued licensing after the suspension, the Appellant must successfully complete the disciplinary education assignment applicable to Chapter 2 (The *Real Estate Services Act*) and Chapter 12 (The Law of Agency) of the Real

Estate Trading Services Licensing Course as provided by the Real Estate Division of the Sauder School of Business at the University of British Columbia;

- C. As a condition of continued licensing after the suspension, the Appellant must enroll and attend the next available CPE courses as follows:
  - (i) “What Brokerages and Realtors Need to Know About Agency”;
  - (ii) “Legal Update”;
  - (iii) “Professionalism It Pays! Be Safe or Be Sued”; and
  - (iv) “Applied Ethics in Real Estate”.
  
- D. As a condition of continued licensing after the suspension that the Appellant pay enforcement expenses to Council in the amount of \$15,000.00 within six months of the date of the Decision.
  
- E. If the Appellant fails to comply with any of the terms of the Orders of Council set out above, Council may suspend or cancel her license without further notice to her pursuant to sections 43(3) and 43(4) of the *Real Estate Services Act*.

The hearing before the Discipline Hearing Committee of Council took place on June 12-16, 2006 inclusive and August 29 and August 30, 2006. Twelve witnesses as well as the Appellant herself presented evidence at the hearing. An extensive book of exhibits was presented to the Discipline Hearing Committee and was reviewed in conjunction with the oral evidence of the witnesses.

### **ISSUES ON APPEAL**

The Appellant takes issue with the Decision of Council as enumerated by its Discipline Hearing Committee. In her submissions, the Appellant addresses these issues with the exception of the matter of the excessiveness of the penalty imposed. Her submissions are silent on this latter point. Thus, this ground of Appeal has not been considered by the Financial Services Tribunal (the “FST”). The Appellant’s general disagreement with the Decision as a whole, however, has been fully considered by the FST in this appeal (the “**Appeal**”).

The Appellant appeals the Decision and disputes the evidence presented to the Discipline Hearing Committee at the hearing. Her submissions do not address matters related to the FST standard of review or grounds that would enable the FST to question or overturn the appropriateness of any of the Decision. This makes the Appeal by the FST one of reconsideration of the Council Decision based upon a re-review of the evidence in light of the Appellant’s comments on the evidence presented to the Discipline Hearing Committee, all in the context of the Appellant attending the entire hearing process and being one of the witnesses at that hearing. This will be discussed further below.

### **PRELIMINARY MATTERS**

The Appellant sought to introduce a number of items comprising new evidence. By way of Interim Order dated May 7, 2007, the FST dismissed the application on the basis that the

Appellant failed to meet the tests set out in section 242.2(8)(b) of the *Financial Institutions Act* for the admission of new evidence. She failed to establish that the proposed new evidence had any material relevance to the issues under appeal and she did not provide any consideration or submissions relating to the tests for the admission of new evidence set out in the *Financial Institutions Act*. The Appellant was ordered to pay costs in the amount of \$500.00 to the Superintendent of Real Estate and costs in the amount of \$500.00 to the Real Estate Council of British Columbia within 30 days of the date of the Interim Decision.

### **SUBMISSIONS OF THE PARTIES IN THIS APPEAL**

As the summary of the Decision set out in the Introduction above indicates, the Appellant has been faced with a number of allegations regarding misconduct, negligence and incompetence in her dealings as a real estate agent licensed under the *Real Estate Act* and regulations. The opening paragraph of the Decision refers to allegations of wrong doing pursuant to section 31(1) of the former *Real Estate Act* arising out of several complaints to Council that:

1. The Appellant misrepresented to another representative that there was an accepted offer on a unit to be sold when this was not the case;
2. She permitted an unlicensed assistant to perform on her behalf activities for which a license is required;
3. She acted as a limited dual agent in a transaction in which she was the buyer;
4. She acted while in a conflict of interest;
5. She distributed advertising to the public in which the name of the owner of the unit for sale was published without the consent of the owner;
6. In her advertising she failed to disclose the name of her brokerage contrary to established regulations; and
7. She failed to identify an individual as being an unlicensed assistant.

These complaints form the basis of the allegations at the Discipline Hearing Committee hearings. The Discipline Hearing Committee identified 10 issues that were addressed at the hearing. Those issues were as follows:

The Appellant, Bella Daniels:

- (a) distributed to the public inaccurate advertising which indicated that certain properties had been sold when there were only conditional offers on the units for sale contrary to section 5.02 of Regulation 75/61;

- (b) distributed advertising to the public in which published the name of the owner of the units to be sold without the consent of the owner contrary to section 5.03 of Regulation 75/61;
- (c) distributed to the public an advertisement which suggested that the said licensee was marketing the units when they were being listed by another salesperson contrary to section 5.02 of Regulation 75/61;
- (d) misrepresented to another salesperson that there was an accepted offer on one of the units to be sold when the said licensee knew that information was not true contrary to section 31(1)(c) of the *Real Estate Act*;
- (e) permitted an unlicensed assistant, namely, George Tumpach, to perform activities on behalf of the said licensee for which a licence was required;
- (f) failed to display the name of the said licensee's employing agent on advertising contrary to the requirements of section 5.01 of Regulation 75/61;
- (g) failed to identify the said George Tumpach as being an unlicensed assistant in advertisements contrary to the Real Estate Council's advertising guidelines;
- (h) acted as a limited dual agent in a transaction in which the said licensee was the purchaser without withdrawing as agent in the transaction and/or ensuring that the seller was afforded the opportunity to seek independent legal advice or advice from another agent, in relation to:
  - (i) the purchase by the said licensee of the property located at 122 Cedarwood Drive;  
and
  - (ii) the purchase by the said licensee of the property located at 124 Cedarwood Drive;
- (i) failed to deliver the Contract of Purchase and Sale and subsequent amendments as well as the Notice of Disclosure Form to the said licensee's agent in a timely manner;  
and
- (j) presented that a property was available for purchase when the licensee knew or ought to have know that this was untrue or misleading.

During the course of the multi-day hearing process, the Discipline Hearing Committee heard from the 12 witnesses as well as the Appellant herself, reviewed 53 exhibits which included 3 books of documents as well as 50 miscellaneous documents and, in the Decision provided a thorough summary of the testimony of the witnesses as well as the testimony of the Appellant herself. Just over three pages of the Decision summarize the testimony of the Appellant and approximately one and one-half pages set out her submissions following the submissions of legal counsel for Council.

I point out the nature of the hearing and the extent of the witnesses, evidence and testimony presented to the Discipline Hearing Committee as well as the extent of the submissions of the Appellant at that hearing because it is relevant to the Appellant's submissions on this Appeal. The Decision may be reviewed in its entirety – it is 37 pages in length – but it is fair to say that the oral testimony of the Appellant as well as her submissions near the end of the hearing are materially similar to her submissions on this Appeal. Examples of the similarities are as follows:

1. What may be referred to as decision 1(a) of the Decision states that the Appellant misconducted herself within the meaning of section 31(1)(c) of the former *Real Estate Act* in that she misrepresented to another licensee that there was an accepted offer on one of the units to be sold which she knew was untrue. In her testimony before the Discipline Hearing Committee, the Appellant "...stated that the witnesses who testified at the hearing that she told them that there were accepted offers on some of the units were not telling the truth. There was no reason for her to say something that was not true." And, in her submissions in this Appeal, the opening wording of the same states: "Regarding Decision #1A: the decision should be dismissed because I did not misrepresent to "another licensee that there was an accepted offer on one of the units to be sold which I knew was untrue." I never said the offer was accepted...". The Appellant goes on to describe conversations that may only be interpreted to be either a rehash of testimony before the Discipline Hearing Committee or new evidence that has not been admitted in this Appeal;
2. With respect to the testimony of certain of the witnesses, in this case notably Liz Parker, the Appellant in her submissions: "... concluded her submissions by stating that she did not intent to break any of the rules and felt that the other licensees were against her and were not telling the truth." Elizabeth (Liz) Parker is a licensed real estate agent with Re/Max Sabre Realty in Port Coquitlam. In the submissions filed by the Appellant in this Appeal, the Appellant states: "Liz Parker has a motive to go along with Michael Christie allegations to damage my reputation."; and
3. On the matter of the activities of George Tumpach, an individual not licensed under the *Real Estate Act*, the testimony of the Appellant before the Discipline Hearing Committee was that Mr. Tumpach was her marketing director, that he knew very well what he could and could not do as an unlicensed assistant, that any advice that he gave clients was limited to construction advice because he was a builder and engineer, that they (the Appellant and Mr. Tumpach) were always together and she would provide real estate advice and he would handle any construction questions. In her submissions, the Appellant admitted: "...that she had no intention to mislead anyone as to Mr. Tumpach's role. He was just there to answer questions on construction matters." She also stated that she: "...changed the advertisement as soon as she was advised by the Council that Mr. Tumpach had to be identified as an unlicensed assistant" which related to the submissions and admissions by the Appellant that Mr. Tumpach had been represented inaccurately and contrary to the rules in advertisement presented to the public by the Appellant. In her submission in this Appeal, the Appellant states: "When we design our new logo for advertisement for billboards, bus shelters, ext. we discussed with our manager of Re/Max Master

Realty, Ralph Kennedy, the fact that George Tumpach was only marketing director of our team and not any more unlicensed assistant. According to the rules of Advertisement in Real Estate, the function of the team member should be identified. The function of George Tumpach in our team was marketing director only at that time.” and further: “As soon as I was informed the very first time via phone call by Real Estate Council to make this change I complied immediately and changed my advertisement as soon as possible. Since than George Tumpach was always advertised as an unlicensed assistant.”

These examples are indications of the submissions of the Appellant on certain of the key issues in this Appeal. Clearly they are re-reviews of the issues addressed at the Discipline Hearing Committee hearing as well as the attempted introduction of new evidence in this Appeal.

The only exceptions that I was able to identify in the Appellant’s submissions in this Appeal related to what could be described as arguments with the testimony of certain of the witnesses. An example of this is the Appellant’s submission in her Appeal submissions that some of Michael Christie’s testimony under oath was not consistent with what he did and said at an earlier date, in this case February 2004. The Appellant reviewed in some detail the testimony of Mr. Christie before the Discipline Hearing Committee and the Appellant does, to some degree, take issue with that testimony without attempting to introduce new evidence. For example, at page 3 of her Appeal submissions the Appellant states “Not once did Michael mention anything regarding me saying that an offer was accepted.” She was referring to his testimony on the issue of allegations that the Appellant had misrepresented whether offers had been accepted with respect to a specific property.

This, however, is the extent of the argument presented. The balance is a mere repudiation of Mr. Christie’s evidence and argumentative statements by the Appellant herself.

There are other examples in the Appeal submissions of the Appellant where testimony is analyzed and inconsistencies presented. Unfortunately, the place for this analysis is the hearing itself. The FST is mandated to determine appeals based on the Record presented to it. The Appellant in this Appeal failed in her application to admit new evidence. She has attempted to admit further new evidence in the form of her Appeal submissions. Further, she has attempted to have the FST re-hear and rehash Discipline Hearing Committee hearing through her Appeal submissions. In my view, the majority of her Appeal submissions are inappropriate in this regard and as a result of the failure of the submissions to address issues related to possible errors of law at the Decision stage. The jist of her submissions may best be described by quoting her statement at page 13 thereof where she states:

“I am innocent of all accusations. During the hearing 50% of the charges against me were dropped. All charges remaining against me are based on assumptions, perceptions and lies that people who turned against me because of their greed, animosity and jealousy, which is clearly shown in their testimonies and my cross-examination of them and the hearing panel. As a licensed realtor, I am obligated to deal with legal facts appropriately and legally as I know very well I am legally liable. I always follow all the

rules and regulation by Real Estate board and my manager in the office who gives us instructions and directions”

However, a review of the Decision shows many examples of the Appellant admitting, in her own evidence as well as in cross-examination by legal counsel for Council, many of the allegations against her. Again, the following examples will illustrate this:

1. In the Decision, the Appellant clearly admitted failing to meet the advertising standards required by the rules affecting licensed realtors with respect to unlicensed assistants. She also admitted changing the advertising that had been submitted to the public that did not comply with these rules once she learned that she was not in compliance thereof;
2. Under cross-examination, the Appellant admitted that when she wrote her own offer on 124 Cedarwood Drive which was accepted on December 5, 2003, she did not check her office manual or consult with Mr. Kennedy as to purchasing her own listing. As such she had not acted in compliance with the Rules regarding purchasing properties over which a realtor has the actual listing; and
3. The Appellant admitted that she did not turn the paperwork in to her office until she had removed the subject clauses with respect to that same transaction on January 9, 2004 and she acknowledged that the policy at Re/Max Masters was that the Notice of Disclosure and all documentation had to be turned into her manager in a timely manner.

Again, these are examples only but they provide a clear indication in this Appeal that her general pronouncement found at page 13 of her Appeal submissions is materially inaccurate as she was not “innocent of all accusations”.

Turning now to the submissions of Council in this Appeal, Council submits that the Appellant directly challenges the findings of the Discipline Hearing Committee with respect to the credibility of the witnesses. This relates to the findings of fact of the Discipline Hearing Committee and the question of mixed facts and law in relation to the conclusions that the Discipline Hearing Committee made and the penalty that was imposed.

It is helpful, therefore, to review the findings attacked by the Appellant:

- A. The Discipline Hearing Committee concluded on the basis of all of the evidence before it that the Appellant represented to two other licensees that there was an accepted offer on one of the units of property offered for sale which representation she knew was not true. Further, the Discipline Hearing Committee concluded that the Appellant permitted an unlicensed assistant, George Tumpach, to perform activities on the behalf for which a license is required – the alleged misrepresentation to the other licensee may constitute misconduct within the meaning of section 31(1)(c) of the former *Real Estate Act*. The Discipline Hearing Committee heard from two witnesses, both of whom were licensees. The Discipline Hearing Committee

accepted their evidence and found that the Appellant represented to the two licensees that there was an accepted offer on one of the units that she knew was not true. The Discipline Hearing Committee did not accept the Appellant's evidence that she told them that there was a written offer on one of the units. The evidence of one of the licensees was supported by the evidence of two other witnesses. In the instance where conflicting evidence existed between the submissions of the Appellant and the submissions of one of the other licensees regarding the receipt of written offers at the office of the other licensee, the Discipline Hearing Committee accepted the evidence of the other licensee having heard all of the testimony of the respective witnesses. The Appellant's submissions on this Appeal attacks the truth and memory of the witnesses and raises her concerns regarding the other motives of the licensees in question in terms of attempting to damage the Appellant's reputation. The Appellant does not address in any substantive manner the evidence itself, any contradictory evidence that emerged or the conclusion that the Discipline Hearing Committee reached on this issue. With respect to the use by the Appellant of an unlicensed assistant, George Tumpach, which would constitute misconduct within the meaning of section 31(1)(c) of the former *Real Estate Act*, the Discipline Hearing Committee heard evidence of more than one witness who had direct communications with Mr. Tumpach, which evidence was accepted by the Discipline Hearing Committee and clearly identified activities by Mr. Tumpach that related to activities that must be performed by a licensed realtor. The Discipline Hearing Committee did not accept the evidence of the Appellant that the team approach that she implemented with Mr. Tumpach effectively excluded Mr. Tumpach from performing activities that were restricted to licensed realtors.

- B. The Discipline Hearing Committee found the Appellant negligent within the meaning of section 9.12 of regulation 75/61 of the former *Real Estate Act* in that she failed to identify George Tumpach as being an unlicensed assistant in her advertisements contrary Real Estate Council advertising guidelines, and failed to deliver the contract of purchase and sale and notice of disclosure in a specific real estate transaction to her agent in a timely manner – With respect to this issue, the Appellant did not deny or take issue with the evidence presented. Rather, she disputes the findings of negligence. Although she does not present any argument, further I assume that she disputes this finding on the basis of it being an err in law.
- C. The Discipline Hearing Committee found the Appellant incompetent within the meaning of section 9.12 of regulation 75/61 under the former *Real Estate Act* when she acted as a limited dual agent in two transactions in which she was the buyer without withdrawing as the agent for the sellers and without ensuring that the sellers were afforded an opportunity to seek independent legal advice or advice from another agent, and the Discipline Hearing Committee found the Appellant negligent within the meaning of the same section 9.12 when she failed to deliver a contract of purchase and sale and notice of disclosure to her agent in a timely manner – Again, the Appellant did not dispute the facts upon which the Discipline Hearing Committee made its findings. She alleges an err in law on the part of the Discipline Hearing Committee and asserts her position that the interpretation of the said Committee:

“was wrong”. No substantive position is taken by the Appellant other than that assertion nor does the Appellant address the conflict of interest prevention procedures that govern licensed real estate agents in these circumstances. Rather, her submissions reflect either a misunderstanding of the guidelines governing her profession or a disregard of the same if in her view the seller receives a fair price for the property and does not complain regardless of the apparent conflict of interest. The Appellant’s evidence in this case is clearly contradicted by oral and documentary evidence presented to the Discipline Hearing Committee.

- D. The Appellant raises the issue of whether the Discipline Hearing Committee conducted a procedurally fair and objective hearing with respect to all issues before it – Although this allegation has been raised by the Appellant a review of the hearing transcripts related to the Discipline Hearing Committee sessions, the evidence of the numerous witnesses presented, the documentary evidence relied upon and the submissions of the parties all, with the exception of the Appellant’s assertion only, evidence a thorough and professional procedure on the part of the Discipline Hearing Committee. None of the assertions of the Appellant with respect to this issue are supported by the Record.
- E. The Appellant raises the issue of whether the Discipline Hearing Committee properly considered all of the facts before it, addressed the seriousness and nature of the professional conduct and applied proper principles in its imposition of a penalty on the Appellant – The penalty has been outlined earlier in this Appeal decision. The Appellant asserts that the penalty was excessively harsh and inappropriate in the circumstances. Her submissions ask that a reprimand and small fine be imposed only if any of the Council allegations are found to be true. Unfortunately, the Appellant’s submissions in this Appeal do not address the penalty imposed in any substantive manner. I will have further comments with respect to this when reviewing the standard of review by the FST below.

### **STANDARD OF REVIEW**

The Appellant’s submissions are scant with respect to the ability of the FST to either reconsider, overturn or change the Decision and the penalty imposed by the Discipline Hearing Committee of Council. Regardless, earlier decisions of the FST have clearly established that the standard of review of tribunal decisions below shall be the standard of reasonableness:

1. Please refer to *The Superintendent of Real Estate v. Real Estate Council of British Columbia & Kenneth Scott Spong*, FST 06-022, February 5, 2007; and
2. *The Superintendent of Real Estate, Chrysdale Ashworth & Master T Realty Ltd. v. Real Estate Council of British Columbia*, FST 05-012 and 05-015, January 31, 2007.

In *Spong*, the FST also referred to the important distinction between the degree of scrutiny involved in an appeal challenging findings of fact versus an appeal on points of law. In that

decision, the FST determined that the degree of deference to the tribunal below would be greater in cases where facts are in dispute. The tribunal that hears the matter has the ability to directly assess the credibility of the witnesses, to juxtapose all oral evidence with documentary evidence and to consider the circumstances of the case with reference to the experience and knowledge of the specialized tribunal in that industry sector. In short, it is in the best position to make the findings of fact in its tribunal decision: see also *Danh Van Nguyen and Express Mortgages Ltd.*, FST 05-004, July 20, 2005. In cases where questions of law are raised, legal deference may be shown to the tribunal decision however the FST may reasonably expect the Appellant to present reason for its assertion that an error of law has been made other than the simple assertion that the tribunal was wrong. The Appellant has not met that test in this Appeal.

With respect to the issue of the severity of the penalty imposed by the Discipline Hearing Committee, the Appellant does not provide submissions supporting her allegation that it is excessive. It is my view that the determination of the penalty imposed by the tribunal after a hearing pursuant to its rules of procedure should be afforded considerable deference. This is supported by earlier FST decisions, including: *Jagit Singh Cheema*, FST 05-019, June 15, 2006 where the presiding Member, J. Hall, stated at page 24:

“I accept the deference which should be given to decisions by professional bodies where the appeal concerns a disciplinary penalty. The original decision involves and exercise of discretion, and the professional body will typically be in a better position to assess evidentiary factors relevant to the imposition of discipline. Thus, the Tribunal should be reluctant to interfere where the professional body has turned its mind to the relevant factors, unless a particular penalty falls outside an acceptable range and no extenuating circumstances are apparent.”

The Appellant offers no extenuating circumstances and the cases referred to by legal counsel for Council do not indicate any reason for the FST in this Appeal to question the penalty imposed by the Discipline Hearing Committee. It is my view that deference should be provided to the considered decision of the Discipline Hearing Committee with respect to the matter of penalty in this case.

## **CONCLUSION**

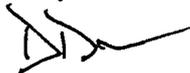
Although the submissions of the Appellant are defective in terms of addressing the issue in this Appeal, issues that are raised by her and are identified in the submissions, a review of the Record as well as the submissions of the parties as a whole has enabled me to determine that there is little if any substance in the position of the Appellant with respect to any of the said issues. Utilizing the standard of review test of reasonableness, I find no reasonable basis whatsoever to question the decision of the Discipline Hearing Committee or the penalty imposed in this matter. Although the Record does not contain evidence of any vexatious intent on the part of the Appellant, my overall assessment of the Record and submissions could support a reasonable argument that the position of the Appellant in this Appeal is frivolous. I will stop short of making that finding here but I do wish to point out that the earlier application for admission of new evidence was coupled with deficient and incomplete submissions by the Appellant in terms of her lack of even attempting to address the criteria or test necessary to be met before new

evidence may be submitted. Similarly, in this Appeal, the Appellant has not attempted to address key principles that must necessarily be addressed for her Appeal to succeed, not the least of which were the standard of review and alleged errors of law at the Discipline Hearing Committee level. The Appellant was afforded plenty of opportunity to do so given the Guidelines related to FST appeals. Finally, the submissions of the Appellant including her final reply submissions show a clear lack of understanding as to how to formulate arguments surrounding the issues in this Appeal, a fundamental disagreement and lack of respect for the Discipline Hearing Committee, an attempt to introduce at the Appeal stage allegations of conspiracy to harm the Appellant's reputation by other licensees and the Discipline Hearing Committee, as well as a fundamental lack of understanding of the seriousness of those unprofessional, improper and incompetent actions of the Appellant that were established in this case. This is disconcerting to say the least. It calls into question the effectiveness of any penalty or series of penalties that may be imposed upon the Appellant as well as her ability or desire to change her methods and procedures while acting as a licensed real estate agent in British Columbia. In any event, I am of the view that a review of the penalties imposed and the status of the Appellant in the real estate industry further is not appropriate in this Appeal.

### **DECISION**

The Appellant's Appeal shall be dismissed with costs. Costs of Council are assessed at \$2,500.00. Costs of the FST are assessed at \$2,500.00. No costs are assessed in favour of the Superintendent of Real Estate given its legal counsel's letter of May 30, 2007 advising that no submissions would be provided by that party.

Respectfully submitted this 19th day of July, 2007



Dale R. Doan LLB  
Member Financial Services Tribunal