

IN THE MATTER OF: THE REAL ESTATE BROKERS ACT

-and-

IN THE MATTER OF: WALTER THEODOR BARTEL

**STATEMENT OF ALLEGATIONS OF STAFF OF
THE MANITOBA SECURITIES COMMISSION**

STAFF OF THE MANITOBA SECURITIES COMMISSION ALLEGE, AMONG OTHER THINGS, THAT:

A. REGISTRATION

1. Walter Theodor Bartel ("Bartel") is registered as a salesman under The Real Estate Brokers Act (the "Act") and has been so registered since February 3, 1993.

B. DETAILS

Mr. and Mrs. H.

1. On or about April 18, 1998, Mr. and Mrs. H (the "H's") listed their property, known as SE 24-9-8W R.M. of S. Norfolk and being approximately 160 acres (the "H Farm") at a price of \$849,000.00, with Bartel pursuant to a Listing Agreement that was to expire on April 18, 1999 (the "H's Listing Agreement").

2. On or about May 18, 1998, an Offer to Purchase the H Farm was made by purchasers from England (the "England Offer"). The England Offer was accepted by the H's.

3. In or about September of 1998, Mr. D., the owner of a farm neighbouring that of the H Farm (the "Neighbouring Farm"), passed away.

4. In or about October of 1998, the purchasers under the England Offer were unable to proceed with the England Offer and withdrew same. As a result, the H Farm remained on the market for sale.

5. In or about January of 1999, the H's were contacted by a relative of Mr. D. as to whether the H's would be interested in buying the Neighbouring Farm exclusive of the house and yard (the "Neighbouring Land").

6. On or about January 25, 1999, the H's signed an Offer to Purchase the Neighbouring Land through Bartel at a price of \$210,000.00.

7. Also on or about January 25, 1999, as the H's were purchasing the Neighbouring Land, the H's advised Bartel that they no longer wished to sell the H Farm. The H's requested that the H Farm be taken off of the market.

8. Following January 25, 1999, Bartel continued to list the H Farm for sale in the Manitoba Co-Operator newspaper, at a price of \$849,000.00.

9. Following January 25, 1999, Bartel continued to allow the H Farm listing to remain on the Multiple Listing Service ("MLS") together with the Neighbouring Land being purchased by the H's at a total price of approximately \$1,050,000.00.

10. No Withdrawal Agreement regarding the H's Listing Agreement was completed by Bartel.

11. As a result of the continued MLS listing, the H's were contacted by an interested party from Ontario.

The A's

12. On or about September 12, 1998, Mr. R.A. and Mrs. G.A. signed a listing agreement appointing Bartel's broker as listing agent in respect of the sale of a property situated on Hazelridge Road (the "Hazelridge Property") and which was accepted by Bartel as salesman (the "Hazelridge Listing Agreement").

13. Mr. R.A. and Mrs. G.A. were two of the four registered owners of the Hazelridge Property.

14. The Hazelridge Listing Agreement granted a charge against the Hazelridge Property in favor of the broker to secure payment of all money which may be owed by the owners under the Hazelridge Listing Agreement and authorized the broker to "register and maintain a caveat against the Land to give notice of this charge upon the finalization of an accepted offer." (*underlining added for emphasis*)

15. On February 12, 1999, Bartel filed in the Winnipeg Land Titles Office a caveat against the Hazelridge Property, naming himself as caveator, by virtue of an interest claimed pursuant to the Hazelridge Listing Agreement (the "Caveat").

16. The Caveat was prepared by Bartel himself, rather than a lawyer.

17. The filing of the Caveat in his own name and the preparation of the Caveat without the use of a lawyer were actions contrary to the policy of Bartel's employing broker.

18. Thereafter, on March 18, 1999, an offer was made to all four of the owners of the Hazelridge Property (the "Hazelridge Offer").

19. The Hazelridge Offer was accepted verbally on March 19, 1999 and in writing on March 24, 1999.

C. ALLEGATIONS

1. Staff of the Commission allege that Bartel:

(a) acted contrary to the H's instructions, by continuing to advertise the H Farm for sale;

(b) failed to enter into a Withdrawal Agreement in respect of the H's Listing Agreement;

(c) in any or all of the circumstances particularized above, acted contrary to protecting and promoting the best interests of the H's;

(d) filed a caveat against the Hazelridge Property prior to, or without, any right to do so;

(e) filed a caveat against the Hazelridge Property in a manner contrary to the internal policy of his employing broker;

and that due to these allegations, it is in the public interest that the registration of Bartel as a salesman under the Act be suspended or cancelled.

2. Such further and other matters as counsel may advise and this Commission permits.

DATED at Winnipeg, Manitoba this 24th day of May, 2000.

Director, Legal and Enforcement

TO: WALTER THEODOR BARTEL
Unit E – 693 Taylor Avenue
WINNIPEG, MANITOBA
R3M 3T9