

IN THE MATTER OF: THE REAL ESTATE BROKERS ACT

-and-

IN THE MATTER OF: PERRY PROPERTIES INC. and JOSEPH A. PERRY

STATEMENT OF ALLEGATIONS OF STAFF
OF THE MANITOBA SECURITIES COMMISSION

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

REGISTRATION

1. Perry Properties Inc. ("Perry") was registered under The Real Estate Brokers Act (the "Act") as a real estate broker from January 17, 1992 until January 17, 1993; from January 17, 1993 until January 25, 1998; from February 18, 1998 until June 3, 1998 when its registration was suspended pursuant to Commission Order No. 2141 dated June 3, 1998 by The Manitoba Securities Commission (the "Commission") for failing to file the Accountant's Report, required by section 14 of Manitoba Regulation 57/88, for the financial year ended December 31, 1997. Perry's registration as a broker under the Act expired on February 18, 1999.

2. Joseph A. Perry was registered as an authorized official under the Act in the employ of Perry from January 17, 1992 until January 17, 1993; from January 17, 1993 until January 25, 1998; from February 18, 1998 until June 3, 1998 when the registrant was suspended. His registration as an authorized official expired on February 18, 1999.

DETAILS

4. Perry managed rental properties for several owners of various properties in Brandon, Manitoba. Perry collected rental income from tenants, paid the expenses and remitted the remaining balances (profits) to the owner's of the properties. The rental income collected by Perry would be placed into trust accounts at the Bank of Montreal located at 1000 Rosser Avenue, Brandon, Manitoba. The expenses and draws would be paid out of these trust accounts.

5. Perry's Real Estate pooled Trust Account ("Trust Account") was shared by Client A and Client B. According to the records, Client A had \$3,808.55 and Client B had \$1,248.61 in the Trust Account as at April 5, 2000.

6. However, as at April 5, 2000 there was only \$4,061.28 in the Trust Account - a shortfall of \$995.88.

7. This Trust Account was frozen by Order of the Commission, Order No. 2298, on August 19, 1998, pursuant to subsection 26(6) of the Act.

8. Client A advises that Perry failed to provide him with a proper accounting of properties managed by Perry.

Client A

SCHEDULE 1

<u>MONTH</u>	<u>INCOME</u>	<u>EXPENSES</u>	<u>PAID TO OWNER</u>	<u>BALANCE</u>
May '97 balance forward				\$387.22
June '97	2722.00	\$2337.87		771.35
July	2722.00	1697.57	\$600.00	1195.78
August	2722.00	374.49	700.00	2843.29
September	2722.00	220.00	1808.45	3536.84
October	2722.00	2162.44	3800.00	296.40
November	2722.00	1358.43	550.00	1109.97
December	2722.00	931.19	950.00	1950.78
January '98	2722.00	376.62	1200.00	3096.16
February	2722.00	105.93		5712.23
March	2722.00	3606.36	1100.00	3277.87
April	2722.00	2666.32	1050.00	2283.55
May	1525.00			3808.55
BALANCE OWED				<u>\$3808.55</u>

9. Client B advises that Perry failed to provide him with a proper accounting of properties managed by Perry.

Client B

SCHEDULE 2

Balance owing on September 1998 final statement from Perry Properties		\$1769.00
Add: Security deposits collected by Perry Properties and paid out by Multiplex Management on behalf of Client B:		
51 Cornell	\$692.80	
281 Maryland	<u>942.50</u>	

		<u>1635.30</u>
Sub-total		3404.30
Deduct: Amounts paid to Client B from Perry Properties not included in September 1998 amount		<u>2310.00</u>
Sub-total		1094.30
Add: Expense items deducted by Perry Properties from rental income but not paid:		
Invoiced – February 7/98 Assiniboine Appliance	\$29.59	
Invoiced – March 17/98 Assiniboine Appliance	107.62	
Invoiced – October 26/96 Keystone Glass	17.10	
		<u>154.31</u>
Balance owing to Client B		<u>\$1248.61</u>

ALLEGATIONS

66. Staff of the Commission allege that:

1. Perry and Joseph A. Perry, in connection with a transaction in real estate, and as a result of an investigation by an investigator appointed by the Commission, are found by the investigator to have failed, within a reasonable time, to account properly for monies received and held in trust in a pooled Bank of Montreal Trust Account for both Client A and Client B.

2. Client A and Client B suffer a combined loss of \$995.88.

and that due to these allegations, staff of the Commission request that the Commission to order the Manitoba Real Estate Association Inc. to pay out of the Fund \$995.88 forthwith to the pooled Bank of Montreal Trust Account, 1000 Rosser Avenue, Brandon, Manitoba.

DATED at Winnipeg, Manitoba this 10th day of January, 2001.

Director, Legal and Enforcement

TO: Perry Properties Inc.

AND TO: The Reimbursement Fund