

IN THE MATTER OF: *THE REAL ESTATE BROKERS ACT*

-and-

IN THE MATTER OF: DARYL SCOTT NEWIS

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

**STAFF OF THE MANITOBA SECURITIES COMMISSION (“Commission”)
ALLEGE THAT:**

A. REGISTRATION

1. Daryl Scott Newis (“Newis”) is a resident of the City of Winnipeg, in the Province of Manitoba.
2. At all material times, Newis was registered as a real estate salesperson under *The Real Estate Brokers Act* (the “REBA”) with Cornerstone Properties Inc. operating as Cornerstone Real Estate (the “Brokerage Firm”).
3. Newis is currently registered as a real estate salesperson under the REBA with Century 21 Carrie Realty Ltd.

B. DETAILS

The Home Street Property

4. Diane Aksamit (“Aksamit”), Newis’ wife, was the owner of a property located at 785 Home Street (the “Home Street Property”) in the City of Winnipeg.
5. Newis was the listing agent for the Home Street Property.
6. Newis was also the agent for B.L, who was looking to purchase a rental property.
7. On August 7, 2016, Newis listed the Home Street Property for sale, and in the multiple listing service, he described that the home had, “2 newer furnaces, 2 newer hot water tanks...a newer roof”. This statement was not true.
8. Newis did not obtain a listing agreement in connection with the sale of the Home Street Property.
9. On Aug 9, 2016, B.L made an offer to purchase the Home Street Property through Newis. The offer was accepted on the same day.

10. On or about September 6, 2016, a handwritten letter (the "Letter") was created by Newis and signed by Newis and B.L.

11. The Letter states, "I B.L. am aware that I purchased 785 Home St. from Diane Aksamit which is a relative of Daryl Newis, and the vendors spouse".

12. The words, "and the vendor's spouse", were not in the Letter when it was signed by B.L. Newis inserted the words after the Letter had been signed by B.L, and without her knowledge and consent.

13. Newis did not disclose his interest in the Home Street Property in that Aksamit, the owner of the house, was his wife. As a result, B.L was unaware that Aksamit was Newis' wife at the time she made an offer to purchase, and upon taking possession of the Home Street Property.

14. On March 30, 2017, in response to a tenant's complaint of leaking from the roof, B.L. obtained an inspection of the roof of the Home Street Property.

15. Upon inspection, the roofing company advised that there were sections of the roof which did not have any shingles, and that there were cedar shingles under the existing roof which would have to be removed.

16. B.L. subsequently obtained three quotes to have the roof repaired, and the quotes range from \$5,250.00 to \$6,500.00.

17. On May 30, 2017, as was required by Manitoba Hydro, B.L. had the furnaces and hot water tanks at the Home Street Property inspected.

18. One furnace was determined to be twenty-three years old and was shut down immediately as a crack was found in the cell. The second furnace was twenty-one years old, was extremely dirty, and required cleaning. The inspector would not guarantee it would work after being cleaned.

19. One hot water tank was determined to be twenty-one years old. The second hot water tank was only five years old, but was not installed to code.

20. Replacement and repair of the furnace and hot water tank were estimated at \$8,701.00.

The Simcoe Street Property

21. Aksamit was the owner of a property located at 323 Simcoe Street (the "Simcoe Street Property") in the City of Winnipeg.

22. Newis was the listing agent of the Simcoe Street Property and listed the property on August 30, 2016.

23. Newis did not obtain a listing agreement in connection with the sale of the Simcoe Street Property.

24. On September 12, 2016, Z.G. made an offer to purchase the Simcoe Street Property. The offer was accepted on the same day.

25. Y.M., Z.G.'s boyfriend, purchased the Simcoe Street Property when Z.G. failed to qualify for a mortgage.

26. Newis did not disclose his interest in the Simcoe Street property to Y.M. in that Aksamit, the owner of the house, was his wife. Sometime after the sale was completed, Y.M. was informed through his agent that Aksamit was Newis' ex-wife, when in fact Newis and Aksamit were married.

27. On August 10, 2017, Newis requested that Y.M. sign a disclosure document indicating that he was aware that Newis' had an interest in the Simcoe Street Property. Y.M. did so.

The McDermot Avenue Property

28. Aksamit was the owner of a property located at 850 McDermot Avenue (the "McDermot Avenue Property") in the City of Winnipeg.

29. Newis was the listing agent of the McDermot Avenue Property and listed the Property for sale on January 3, 2017.

30. Newis did not obtain a listing agreement in connection with the sale of the McDermot Avenue Property.

31. Newis completed a disclosure statement indicating his interest in the McDermot Avenue Property that Aksamit the owner, was his wife. The name of the authorized representative of the Brokerage Firm, Richard Dettman, appears on the disclosure document, but it is not signed by him.

32. Newis sold the McDermot Avenue Property on January 20, 2017.

C. ALLEGATIONS

1. Staff of the Commission allege that,

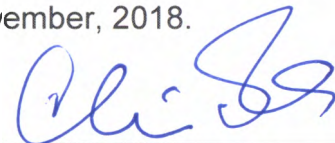
- (a) In contravention of s 20 of the REBA, Newis failed to obtain listing agreements prior to advertising for sale, the Home Street, Simcoe Street, and McDermot Avenue Properties;

- (b) In contravention of s 19(9) of the REBA, Newis failed to disclose to the purchasers that his wife was the vendor of the Home Street, Simcoe Street, and McDermot Avenue Properties;
- (c) Newis committed a "fraudulent act" within the meaning of the REBA, in that he created a misleading listing in the multiple listing service for the Home Street Property by describing the furnaces, hot water tanks, and roof in the listing, as "newer", when they were not;
- (d) Newis committed a "fraudulent act" within the meaning of the REBA, in that he inserted the words, "and the vendor's spouse" into the Letter, after B.L. had signed this document and without her knowledge and consent;
- (e) Newis's conduct, as set out above, was contrary to the public interest;

and due to these allegations and matters referred to herein, pursuant to s. 11(1) of the REBA, Newis's registration should be cancelled, suspended or terms and conditions should be attached to his registration. Further, Newis should pay the costs of the investigation into matters referred to in these allegations and pays costs of the hearing.

2. Such further and other matters as counsel may advise and the Commission may permit.

DATED at Winnipeg, Manitoba this 23rd day of November, 2018.



Director

TO: DARYL SCOTT NEWIS