

THE REAL ESTATE BROKERS ACT) **Order No. 2510**
)
Sections 11(1)) **October 20, 2004**

WALTER THEODOR BARTEL

WHEREAS:

(A) A hearing (the "Hearing") was held by The Manitoba Securities Commission (the "Commission") on September 14 and 15, 2000 and was continued on November 23, 24 and 28, 2000 and ended on December 4, 2000 pursuant to a Notice of Hearing and Statement of Allegations of Staff dated May 24, 2000 to consider:

- (i) whether or not it is in the public interest to order, pursuant to subsection 11(1) of The Real Estate Brokers Act (the "Act"), that the registration of Walter Theodor Bartel ("Bartel") as a salesman under the Act be suspended or cancelled;
- (ii) whether or not it is in the public interest to order that Bartel pay the costs of the investigation and the hearing;
- (iii) such further and other matters and the making of such further and other orders as the Commission may deem appropriate.

(B) After reading the Notice of Hearing and Statement of Allegations of Staff and upon hearing the evidence and submissions of staff and of Bartel, the Commission issued Reasons for Decision with respect to the Hearing dated January 24, 2001.

(C) The Commission issued order no. 3227 on January 24, 2001 (the "Original Order").

(D) Bartel appealed the Original Order to the Manitoba Court of Queen's Bench. The honourable Judge issued reasons for decision dated September 24, 2001 allowing the appeal (the "QB Decision").

(E) Staff for the Commission appealed the QB Decision to the Manitoba Court of Appeal. The honourable Court delivered a judgment dated February 21, 2003 which allowed the appeal in part and directed the matter be returned to the Commission for the determination of an appropriate penalty in light of its findings (the "CA Decision").

(F) Bartel applied for leave to the Supreme Court of Canada to appeal the CA Decision. The application for leave was dismissed with costs by a decision dated January 22, 2004.

(G) The Hearing was continued on September 9, 2004 to consider the appropriate penalty in light of the CA Decision at which time the Commission heard further submissions from Bartel and Staff.

(H) At the request of Bartel, the Commission also received further written submissions from Bartel and Staff, both filed September 16, 2004.

(I) In the opinion of the Commission it is in the public interest to make this Order.

IT IS ORDERED:

1. THAT, pursuant to subsection 11(1) of the Act:

a) Bartel is suspended from registration as a salesperson for a period of 60 days commencing October 27, 2004;

b) It is a condition of Bartel's registration that he enrol in and successfully complete the following portions of the Manitoba Real Estate Association Courses:

1) Phase 2

- a. Unit 5 – Agency Law & Practice;
- b. Unit 6 – Contract Law;
- c. Unit 7 – Professional Conduct;

2) Phase 3:

- a. Unit 2 – Representing Seller;
 - b. Unit 3 – Representing Buyer,
- by December 31, 2005 or such later date as might be agreed to by the Registrar.

2. THAT Bartel pay to the Commission costs in the amount of \$10,000.00.

BY ORDER OF THE COMMISSION

Director, Legal and Enforcement