



THE MANITOBA  
SECURITIES  
COMMISSION

THE REAL ESTATE BROKERS ACT )  
)  
Section 11(1) )

Order No. 2670

November 6, 2013

**LIAM JOHN WHEDDON AND BERGEN REALTY LTD.  
OPERATING AS UNRAU REALTY**

**WHEREAS:**

(A) On October 31, 2013, The Manitoba Securities Commission ("Commission") issued a Notice of Hearing ("NOH") giving notice of its intention to hold a hearing ("Proceedings") to consider whether it was in the public interest to approve a Settlement Agreement and grant orders under *The Real Estate Brokers Act* ("Act") with respect to Liam John Wheddon ("WHEDDON") and Bergen Realty Ltd. operating as Unrau Realty ("UNRAU REALTY");

(B) Staff of the Commission and the respondents entered into a Settlement Agreement (a copy of which is attached as Schedule "A") dated October 29, 2013 ("Settlement Agreement"), which proposed settlement of the Proceedings, subject to the approval of the Commission;

(C) The respondents have consented to the issuance of this Order and have waived their rights to a full hearing;

(D) On November 6, 2013, the Commission held a hearing ("Settlement Hearing") to consider whether or not to approve the Settlement Agreement;

(E) The Commission is of the opinion that it is in the public interest to make this order.

**IT IS ORDERED:**

1. **THAT** the Settlement Agreement, Schedule "A", be and the same is hereby approved.
2. **THAT** pursuant to subsection 11(1) of the Act, WHEDDON make a payment to the Treasury of the Province of Manitoba in the amount of \$1,500.00, to be paid within seven days of the date of this order.
3. **THAT** pursuant to subsection 11(1) of the Act, UNRAU REALTY make a payment to the Treasury of the Province of Manitoba in the amount of \$1,500.00, to be paid within seven days of the date of this order.

**BY ORDER OF THE COMMISSION**

  
\_\_\_\_\_  
Director

**SCHEDULE "A"**

Ex #2  
Nov 6/13  
Wheddon/Unrau  
JL Realty

**Settlement Agreement**

**Liam John Wheddon and Bergen Realty Ltd. operating as Unrau Realty**

**and**

**The Staff of The Manitoba Securities Commission**

**The Manitoba Securities Commission  
500 – 400 St. Mary Avenue  
Winnipeg, Manitoba  
R3C 4K5**



THE MANITOBA  
SECURITIES  
COMMISSION

## SETTLEMENT AGREEMENT

### A. Introduction

- A1. By way of a Notice of Hearing to be issued ("NOH"), The Manitoba Securities Commission ("Commission") will give notice of its intention to hold a hearing to consider whether pursuant to The Real Estate Brokers Act ("REBA") it is in the public interest for the Commission to make an order approving the settlement agreement contained herein entered into between staff of the Commission ("Staff") and Liam John Wheddon and Bergen Realty Ltd. operating as Unrau Realty ("Settlement Agreement").
- A2. Discussions have been held between Liam John Wheddon ("WHEDDON") and Bergen Realty Ltd. operating as Unrau Realty ("UNRAU REALTY"), collectively referred to as the respondents, and Staff in an effort to settle all issues in connection with an enforcement matter in respect of conduct or alleged conduct of the respondents in relation to the facts set out in Part B. of this Settlement Agreement ("Enforcement Matter"). A settlement of the Enforcement Matter has been reached based on the terms and conditions set forth in this Settlement Agreement.
- A3. Pursuant to the settlement, Staff agree to recommend to the Commission that the Enforcement Matter against the respondents be resolved and disposed of in accordance with the terms and conditions of this Settlement Agreement as set forth below. The respondents consent to the settlement and to the making of the consent order referred to in Part D. below, on the terms and conditions set forth in this Settlement Agreement.

### B. Statement of Facts

#### Unregistered Activity in 2013 –

- B1. At all material times, UNRAU REALTY was WHEDDON's employing broker.
- B2. WHEDDON was registered as a salesman under REBA on May 16, 2012.
- B3. Unless renewed, WHEDDON's registration was to expire at the end of one year.
- B4. UNRAU REALTY says that on April 17, 2013 it attempted unsuccessfully to renew the registration of WHEDDON through the on-line service. No further attempt by any method was made by UNRAU REALTY.

- B5. No application for renewal of WHEDDON's registration was received by the Commission.
- B6. On May 15, 2013, WHEDDON's registration was suspended for failure to renew.
- B7. On May 21, 2013, WHEDDON and UNRAU REALTY completed an Application for registration for WHEDDON as a salesperson under REBA on behalf of UNRAU REALTY as employing broker.
- B8. On May 21, 2013, the Application for registration was received by the Commission.
- B9. On May 21, 2013, WHEDDON was again registered as a salesman under REBA with UNRAU REALTY.
- B10. During the period from and inclusive of May 15, 2013 until registration on May 21, 2013, WHEDDON, in the employ of UNRAU REALTY, continued to act as a real estate salesman engaging in real estate transactions, including replying to a request for information to properties WHEDDON had listed, receipt of an offer from another agent, and presentation of offer to sellers.

#### **History of Conduct –**

- B11. Prior to 2013, WHEDDON and UNRAU REALTY had previously failed to renew the registration of WHEDDON as a salesperson under REBA resulting in his registration expiring on May 1, 2012.
- B12. WHEDDON in the employ of UNRAU REALTY had engaged in unregistered activity in real estate transactions from May 1, 2012 until May 16, 2012 when he was again registered.
- B13. A warning letter had been issued for the unregistered activity in 2012.

#### **C. Acknowledgements**

- C1. WHEDDON acknowledges and agrees that he:
  - (a) acted contrary to subsection 12(1) of REBA by failing to make application for renewal of registration within the prescribed time;
  - (b) acted contrary to subsection 3(4) of REBA by engaging in real estate trades or transactions without registration.

- C2. UNRAU REALTY acknowledges and agrees that it:
- (a) acted contrary to subsection 24(1) of REBA by employing WHEDDON as a real estate salesman without registration.
- C3. Staff acknowledges that WHEDDON and UNRAU REALTY have been co-operative in the completion of this matter.

**D. Terms of Settlement**

- D1. In order to effect a resolution of the issues raised by the Enforcement Matter, Staff and the respondents have entered into this Settlement Agreement. Upon this basis, Staff seek an order ("Consent Order") from the Commission pursuant to subsection 11(1) of REBA that it is in the public interest that:
- (a) the Settlement Agreement be approved;
  - (b) WHEDDON make a payment to the Treasury of the Province of Manitoba in the amount of \$1,500.00, to be paid within seven days of the date of this order;
  - (c) UNRAU REALTY make a payment to the Treasury of the Province of Manitoba in the amount of \$1,500.00, to be paid within seven days of the date of this order.

**E. Procedure for Approval of Settlement**

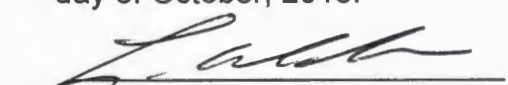
- E1. The approval of this Settlement Agreement and the making of the Consent Order set out in this Settlement Agreement shall be sought at a public hearing pursuant to the NOH to be issued.
- E2. Staff and the respondents agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted to the Commission in connection with the Enforcement Matter and the respondents hereby waive their respective rights to a full hearing and appeal of this matter.
- E3. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the Consent Order referred to in Part D. above is not made by the Commission, Staff will be entitled to proceed with whatever steps it is entitled by law to take, including but not restricted to the commencement of a hearing before the Commission, unaffected by this Settlement Agreement or the settlement discussions. In the event that

such steps are taken, the respondents shall have all the usual rights of an individual subject to such proceedings. If this Settlement Agreement is not approved or the Consent Order set out in Part D. above is not made by the Commission, the terms of this Settlement Agreement shall remain confidential and will not be raised in this or any other proceeding and any admissions contained in this Settlement Agreement shall be considered as without prejudice communications and in furtherance of settlement discussions, which will not be binding upon the parties and which will be inadmissible in any proceeding whatsoever.

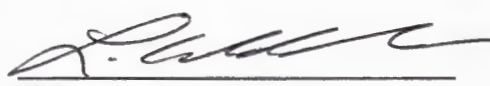
- E4. Staff and the respondents agree that if this Settlement Agreement is approved by the Commission and the Consent Order made upon the terms set out in this Settlement Agreement, this Settlement Agreement will be a public document.
- E5. Each of the respondents agree that he/it will not raise in any proceeding this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as a basis for an attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other challenge that may be available.
- E6. If this Settlement Agreement is approved by the Commission and the Consent Order is made upon the terms set out in this Settlement Agreement, neither Staff nor the respondents will make any statement inconsistent with this Settlement Agreement.

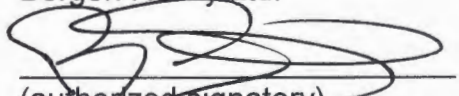
DATED at STONEWALL, Manitoba, this 29 day of October, 2013.

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Liam John Wheddon

DATED at \_\_\_\_\_, Manitoba, this \_\_\_\_\_ day of October, 2013.

  
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Witness  
  
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Witness

Bergen Realty Ltd.  
per:   
\_\_\_\_\_  
(authorized signatory)  
RICHARD TYERMAN  
name of signatory (please print)  
PRESIDENT / BROKER  
position of signatory

DATED at Winnipeg, Manitoba, this 21<sup>st</sup> day of October, 2013.

Staff of the Manitoba Securities  
Commission

per:   
Director, Legal and Enforcement