

THE REAL ESTATE BROKERS ACT)
)
Section 11(1) and 34(1))

Order No. 2724
March 29, 2017

CARL SEIER

WHEREAS:

(A) On February 7, 2017, Staff of the Manitoba Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice") giving notice of its intention to hold a hearing (the "Hearing") to consider, among other things, whether it was in the public interest to suspend or cancel the registration of Carl Seier ("Seier") as a salesperson under *The Real Estate Brokers Act* (the "Act");

(B) Seier and Staff of the Commission ("Staff") entered into a Settlement Agreement (the "Settlement Agreement"), a copy of which is attached as Schedule "A" dated February 28, 2017, in which Staff and Seier agreed to a proposed settlement in the proceedings initiated by the Notice, subject to the approval of the Commission;

(C) Seier has consented to the issuance of this Order and has waived his right to a full hearing;

(D) The Commission has reviewed the Settlement Agreement and is of the opinion that it is in the public interest to make this Order.

IT IS ORDERED:

1. **THAT** the Settlement Agreement be and the same is hereby approved.
2. **THAT** Seier will make a payment to the Treasury of the Province of Manitoba in the amount of ten thousand two hundred fifty (\$10,250.00) Dollars.
3. **THAT** Seier will pay to the Commission costs in the amount of one thousand five hundred (\$1,500.00) Dollars.
4. **THAT** Seier will pay the two above noted amounts by way of payments consisting of a payment of \$1000 forthwith upon Commission approval of the Settlement Agreement with the remaining amounts payable at the rate of \$1000 per month payable on the 25th day of each month, commencing in the month following the approval of this settlement by the Commission, until both amounts are fully paid.

BY ORDER OF THE COMMISSION

Director - Legal

SETTLEMENT AGREEMENT

BETWEEN:

CARL SEIER

and

STAFF OF THE MANITOBA SECURITIES COMMISSION

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

**In the Matter of The Real Estate Brokers Act
R.S.M. 1987, c. R20**

and

In the Matter of Carl Seier

Settlement Agreement

1. Staff of The Manitoba Securities Commission and Carl Seier ("Seier") have reached the following agreement:

Introduction

- 2.1 On February 7, 2017, The Manitoba Securities Commission (the "Commission") issued a notice of hearing (the "Notice of Hearing") of staff for a hearing (the "Hearing") under subsection 11(1) of *The Real Estate Brokers Act* (the "Act") to consider, *inter alia*:
 - a) whether it is in the public interest to order pursuant to subsection 11(1) of the Act that the registration of Seier as a salesperson under the Act be suspended or cancelled;
 - b) whether it is in the public interest that Seier be ordered to pay the costs of the investigation and hearing;
 - c) such further and other matters as counsel may advise and the Commission may permit.
- 2.2 Discussions have been held between Seier and Staff of The Manitoba Securities Commission ("Staff") to settle the matters covered in the Notice of Hearing and Statement of Allegations (the "Proceedings"). A settlement (the "Settlement") has been reached based on the terms and conditions set forth herein.
- 2.3 Pursuant to the Settlement, Staff agrees to recommend to the Commission that the Proceedings initiated against Seier be resolved and disposed of under the terms and conditions of this Agreement. Seier consents to the Settlement and to the consent order referred to in section 6 below.

Agreed Statement of Facts

3. Seier acknowledges the following facts as correct.
 - 3.1 On or about January 28, 2014, HG entered into an Offer to Purchase to purchase property located at 288 Ash Street ("Ash Property").

- 3.2 Seier was one of the Selling Salespersons and Listing Salespersons under the Offer to Purchase.
- 3.3 Under the Offer to Purchase, the Seller of the Ash Property was to provide a Property Disclosure Statement to HG.
- 3.4 A Property Disclosure Statement was provided to HG by Seier. HG relied on the representations in the Property Disclosure Statement when entering into the Offer to Purchase
- 3.5 HG took possession of the Ash Property on or about April 15, 2014.
- 3.6 After HG had taken possession of the Ash Property, water leaked into the basement on the Ash Property. As a result HG wanted to review the Property Disclosure Statement provided.
- 3.7 HG located the Property Disclosure Statement provided by Seier and forwarded it to the Seller's lawyer as she was concerned the signature on the Property Disclosure Statement did not match the signature of the Seller.
- 3.8 After forwarding the Property Disclosure Statement to the Seller's lawyer, it was determined the signature on the Property Disclosure Statement was not the Seller's but was forged.
- 3.9 Seier, who was involved in a domestic separation at the material time, admitted to Commission Staff to forging the Seller's signature on the Property Disclosure Statement as he lost the Property Disclosure Statement originally signed by the Seller.

Mitigating Circumstances

4. Seier was cooperative with Staff during the course of its investigation.
- 4.1 Seier has no record of prior enforcement proceedings initiated against him by Commission Staff.

Acknowledgments

5. Seier acknowledges that:
 - 5.1 He committed a fraudulent act within the meaning of the definition of "fraud" contained in the REBA by forging the Seller's signature on the Property Disclosure Statement provided to HG.

Undertaking

6. Seier undertakes and agrees to the following:
 - 6.1 Seier will pay to the Treasury of the Province of Manitoba the amount of ten thousand two hundred fifty (\$10,250.00) Dollars.

- 6.2 Seier will pay to the Commission costs in the amount of one thousand five hundred (\$1,500.00) Dollars.
- 6.3 Seier will pay the two above-noted amounts by way of payments consisting of a payment of \$1000.00 forthwith upon Commission approval of the Settlement Agreement with the remaining amounts payable at the rate of \$1000.00 per month payable on the 25th day of each month, commencing in the month following the approval of this settlement by the Commission, until both amounts are fully paid.

Order

7. Seier consents to an order by the Commission (the "Order") that:
- 7.1 the Agreement be approved.
- 7.2 the approval of this Agreement and the making of the Consent Order as set out in this Settlement Agreement shall be sought at a public hearing, in camera.

Waiver and Procedure for Approval of Settlement

8. Staff and Seier agree that, if the Commission approves this Agreement, it will constitute the entirety of the evidence to be submitted to the Commission in connection with the Proceedings, and that Seier hereby waives his right to a full hearing and appeal of this matter.
- 8.1 If for any reason whatsoever the Commission does not approve this Agreement or the Consent Order referred to above is not made by the Commission, Staff will be entitled to proceed with the Hearing commenced by the Notice of Hearing unaffected by this Agreement or the settlement discussions. If this Agreement is not approved or the Commission does not make the Consent Order set out above, either Staff or Seier will not raise in the Proceedings or in any other proceeding the terms of the Agreement.
- 8.2 Staff and Seier agree that if the Commission approves this Agreement and the Consent Order is made upon the terms set out in this Agreement, this Agreement will be a public document.
- 8.3 Seier agrees that he will not raise in any proceedings this Agreement or the negotiation or process of approval of this Agreement as a basis for an attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other challenges that may be available.
- 8.4 Seier further agrees that if the Commission approves this Agreement and the Consent Order is made upon the terms set out in this Agreement, Seier will not make any statements inconsistent with the terms of this Agreement.

DATED at Winnipeg, Manitoba, this "13th" day of "February", 2017.

"Steve Vincent"

"Carl Seier"

Witness

Carl Seier

DATED at Winnipeg, Manitoba, this "28th" day of "February", 2017.

Staff of The Manitoba Securities
Commission

per: "Chris Besko"
Director