

IN THE MATTER OF: THE REAL ESTATE BROKERS ACT

- and -

IN THE MATTER OF: PAUL RAYMOND HRANKOWSKI

AMENDED

STATEMENT OF ALLEGATIONS OF STAFF OF  
THE MANITOBA SECURITIES COMMISSION

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

**A. REGISTRATION**

1. At all material times, Paul Raymond Hrankowski ("Hrankowski") was registered as an Authorized Official and Real Estate Broker under The Real Estate Brokers Act ("Act").
2. On April 20, 2005, The Manitoba Securities Commission ("Commission") suspended the registration of Hrankowski effective April 20, 2005 through to May 4, 2005, both dates inclusive, pursuant to Order No. 2521 ("Suspension Order").
3. On April 21, 2005, the Commission gave notice of its intention to hold a hearing on May 4, 2005, to consider, *inter alia*, whether to extend the period of the Suspension Order.

**B. DETAILS**

1. At all material times, Ms. J has been the registered owner of a property located within the City of Winnipeg, Province of Manitoba ("Property").
2. On January 29, 2004, Ms. J listed the Property for sale with Hrankowski pursuant to a Listing Agreement for the period of January 29, 2004 through to March 31, 2004 inclusive ("Listing Agreement").
3. Pursuant to the terms of the Listing Agreement, Ms. J, the Seller, pledged her interest in the Property to Hrankowski as security for payment of all money which may be owed by her to Hrankowski under the Listing Agreement and acknowledged that Hrankowski is entitled to register and maintain a caveat at the Land Titles Office ("LTO") to give notice of the charge "upon the Seller executing a legally enforceable contract of sale" of the Property.

4. On February 24, 2004, Hrankowski registered a caveat with the Winnipeg Land Titles Office ("WLTO") against the Property ("Caveat").
5. At all material times, no legally enforceable contract of sale of the Property as described in the Listing Agreement was executed by Ms. J.
6. Ms. J continues to own the Property.
7. The Caveat has remained registered against the Property.
8. On July 7, 2004, Ms. J filed a formal complaint with the Commission, Real Estate Section. Staff of the Commission investigated the complaint.
9. During the course of the investigation, on more than one occasion, staff of the Commission by written correspondence requested from Hrankowski information regarding the subject of the complaint, or information that would assist in conducting the investigation. Staff requested written responses to questions posed by staff.
10. On more than one occasion, Hrankowski either failed to be responsive in his purported reply or failed to respond at all.
11. On November 19, 2004, a Summons issued to Hrankowski requiring him to attend for an Examination to be held on December 14, 2004 ("Summons for December 14").
12. Between November 19, 2004 and December 3, 2004, staff of the Commission using various methods attempted on numerous occasions to communicate with Hrankowski in order to personally serve Hrankowski with the Summons for December 14, without success.
13. On December 6, 2004, having been contacted by Hrankowski via e-mail, staff advised him of the date of December 14, 2004 and asked that he provide details to staff as to when it would be convenient to effect personal service.
14. No response was received from Hrankowski.
15. On December 14, 2004, Hrankowski failed to attend for an Examination at the offices of the Commission.
16. A Summons was drafted with the anticipated examination date of January 18, 2005 ("Draft Summons"). The Draft Summons did not issue due to unsuccessful attempts to make contact with Hrankowski.

17. On January 19, 2005, a Summons issued to Hrankowski requiring him to attend for an Examination on February 22, 2005 ("Summons for February 22").
18. Service of the Summons for February 22 was attempted by registered mail. The registered mail was returned unclaimed.
19. On January 20, 2005, the Summons for February 22 was delivered by staff to the address of record for Hrankowski.
20. On February 22, 2005, Hrankowski failed to attend for an Examination at the offices of the Commission.
21. In general, during the investigation and to date, Hrankowski has failed to maintain any effective lines of communication with staff of the Commission including the Registrar and the person conducting the investigation of the complaint by Ms. J.
22. As a broker, Hrankowski is required to file annually with the Registrar under the Act a Trust Account Report within four months after the end of his financial year.
23. Hrankowski's year end is December 31st.
24. The Trust Account Report was due no later than May 2, 2005.
25. No Trust Account Report has been filed.
26. No application for an exemption from the requirement to file a Trust Account Report with a supporting Affidavit verifying the facts required for an exemption has been filed with the Registrar.

### **C. ALLEGATIONS**

1. Staff of the Commission allege that Hrankowski's conduct while registered under the Act was improper in that he:
  - (a) maintained and failed to discharge the Caveat against the Property in spite of there being no legally enforceable contract of sale as required by the Listing Agreement;
  - (b) failed to furnish information and/or to appear for examination when summoned;
  - (c) acted contrary to protecting and promoting the best interests of the client;

and that Hrankowski failed to file an annual Trust Account Report or application for exemption with supporting affidavit as required by sections 14 and 17, respectively, of Regulation 57/88R to the Act;

and that due to these allegations, it is in the public interest that the registration of Hrankowski under the Act be suspended or cancelled.

2. Such further and other matters as counsel may advise and this Commission permits.

**DATED** at Winnipeg, Manitoba this 17<sup>th</sup> day of May, 2005.

**Director, Legal and Enforcement**

**TO: PAUL RAYMOND HRANKOWSKI**