

May 6, 2025

IN THE MATTER OF: THE REAL ESTATE SERVICES ACT

- and -

**IN THE MATTER OF: DAVID A. POWELL o/a POWELL PROPERTY
GROUP and DAVID ARTHUR POWELL**

**REASONS FOR DECISION
OF THE SETTLEMENT HEARING PANEL
THE MANITOBA SECURITIES COMMISSION**

Hearing Date: May 1, 2025

Panel:

Panel Chair:	Mr. D. Cheop, K.C.
Member:	Mr. J. McJannet, K.C.

Appearances:

A. Poushangi)	Counsel for Staff of The Manitoba Securities Commission
M. Hacault)	Counsel for David A. Powell o/a Powell Property Group and David Arthur Powell

Background

On April 24, 2025, Staff ("Staff") of The Manitoba Securities Commission ("Commission") issued a Notice of Hearing and a Statement of Allegations under subsection 59(1) of *The Real Estate Services Act* ("RESA") for a hearing to consider whether a Settlement Agreement dated March 27, 2025 between Staff and David A. Powell o/a Powell Property Group ("PPG") and David Arthur Powell ("Powell") should be approved. After reviewing the Settlement Agreement and the submissions of Counsel for Staff and Powell this Panel approved the Settlement Agreement and indicated that the reasons for doing so would follow. These are those reasons.

PPG is the registered trade name of Powell, who was registered as a brokerage under RESA, and previously as a brokerage under RESA's predecessor legislation, *The Real Estate Brokers Act* ("REBA"), and which legislation was in effect until January 1, 2022. Powell was the official of PPG under RESA and was the authorized official of PPG under the REBA at all relevant times. PPG is no longer actively providing real estate services and is in the process of closing out its registration under RESA.

Kathryn June Pion ("Pion") is a real estate salesperson registered under RESA and who was previously registered as a salesman under REBA. On June 13, 2019, her registration under REBA was suspended when she was no longer employed with any brokerage. Subsequently she was engaged as a salesman with PPG but no steps were taken to reactivate her registration under REBA until January 16, 2020, meaning that she was unregistered for a period of just over seven months. During that period she engaged in five real estate transactions acting on behalf of either the seller or the purchaser or both. PPG received commissions of \$1,575.00 on those transactions.

In the Settlement Agreement Staff acknowledge that when Powell and PPG became aware that Pion's registration under REBA was suspended they took prompt steps to ensure that Pion became registered under the Act. Staff also acknowledge in the Settlement Agreement that Powell and PPG have fully cooperated in the investigation.

Reasons for the Approval of the Settlement:

The Settlement Agreement is the product of negotiations between counsel for Staff of the Commission and counsel for Powell and PPG, both of whom recommended acceptance of it. When considering a Settlement Agreement, a Commission panel must recognize the negotiation process and give significant weight to the agreement reached by the parties. Our role is to determine if the agreed upon sanctions are within the boundaries of what a reasonable person, aware of the circumstances, would consider to be in a range of reasonable outcomes. There is a high threshold to be met in order for a recommended Settlement Agreement to be rejected.

In the Settlement Agreement PPG and Powell acknowledge that:

- (a) PPG paid commissions to Pion for the five transactions while she was unregistered;
- (b) PPG collected commissions on Pion's transactions while she was unregistered;
- (c) This conduct was contrary to the public interest.

The Settlement Agreement further provides that PPG and Powell will pay \$1,575.00 as a penalty to the Commission within 60 days.

The central question that a panel of the Commission must also consider in connection with a proposed Settlement Agreement is whether approving it is in the public interest. In our view, the penalty imposed on PPG and Powell is appropriate considering the facts of this matter, particularly given that they took immediate steps to reactivate Pion's registration under RESA when they discovered it was suspended.

Approval of a Settlement Agreement resolves a matter quickly, efficiently and with certainty. The settlement avoids the time and costs associated with a contested hearing process. In addition, the Settlement Agreement itself becomes public and can serve as a general deterrent to others in the industry against future improper conduct.

In the panel's view the Settlement Agreement falls within the acceptable parameters in the circumstances, and as a whole the resolution is in the public interest. For these reasons, the panel concludes it is in the public interest to approve the Settlement Agreement.

"D. Cheop"

David Cheop, K.C.

Panel Chair

"J.T. McJannet, K.C."

J.T. McJannet, K.C.

Member