

THE REAL ESTATE BROKERS ACT) **Order No. 2584**
)
Section 39.1(2) and 34(1)) **October 26, 2007**

JEFFERY GRUBB

WHEREAS:

(A) On February 21, 2007, 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 Jeffery Grubb ("Grubb") committed a fraudulent act or acts within the meaning of the Real Estate Brokers Act (the "Act") and whether pursuant to section 39.1(2) of the Act, The Manitoba Real Estate Association Inc. be required to pay out of The Real Estate Reimbursement Fund the sum of \$7,725.00 to Philip Danyluk;

(B) Grubb and Staff of the Commission ("Staff") entered into a Settlement Agreement (the "Settlement Agreement"), a copy of which is attached as Schedule "A" dated October 24, 2007, in which Staff and Grubb agreed to a proposed settlement in the proceedings initiated by the Notice, subject to the approval of the Commission;

(C) Upon reviewing the Settlement Agreement and hearing the evidence and submissions of Staff, 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 be and the same is hereby approved.
- 2. THAT** pursuant to subsection 34(1) of the Act, Grubb will pay to the Commission costs in the amount of \$1,000.00.
- 3. THAT** pursuant to subsection 39.1(2) of the Act, The Manitoba Real Estate Association Inc. pay out of The Real Estate Reimbursement Fund the sum of \$7,725.00 to Philip Danyluk.

BY ORDER OF THE COMMISSION

Director - Legal

SETTLEMENT AGREEMENT

BETWEEN:

JEFFERY GRUBB

And

STAFF OF THE MANITOBA SECURITIES COMMISSION

**The Manitoba Securities Commission
500 – 400 St. Mary Avenue
Winnipeg, MBR3C 4K5**

IN THE MATTER OF THE REAL ESTATE BROKERS ACT

AND

IN THE MATTER OF JEFFERY GRUBB

SETTLEMENT AGREEMENT

1. Staff of The Manitoba Securities Commission and Jeffery Grubb (“Grubb”) have reached the following agreement:

INTRODUCTION

2. On February 21, 2007, The Manitoba Securities Commission (the “Commission”) issued a Notice of Hearing together with a Statement of Allegations of Staff for a hearing (the “Hearing”) pursuant to *The Real Estate Brokers Act* (the “Act”) to consider, *inter alia* to:

2.1 whether Grubb committed a fraudulent act or acts within the meaning of the Act;

2.2 whether pursuant to section 39.1(2) of the Act, The Manitoba Real Estate Association Inc. be required to pay out of the Real Estate Reimbursement Fund the sum of \$7,725.00 to Philip Danyluk (“Danyluk”);

2.3 whether pursuant to section 34(1) of the Act it is in the public interest to order that Grubb pay costs of the investigation and hearing;

2.4 such further and other orders as the Commission may deem appropriate;

2.5 discussions have been held between Grubb and Staff of The Manitoba Securities Commission (the “Staff”) to settle the matters, except for the Real Estate Reimbursement Fund claim referred to in paragraph 2.2 herein, covered in the Notice of Hearing and Statement of Allegations (the “Proceedings”). A settlement has been reached based on the terms and conditions set forth herein;

2.6 pursuant to the settlement, Staff agrees to recommend to the Commission that the Proceedings, except for the Real Estate Reimbursement Fund claim referred to in paragraph 2.2 herein, initiated against Grubb be resolved and disposed of

under the terms and conditions of this Agreement. Grubb consents to the Settlement and to the Consent Order referred to in section 6 below.

AGREED STATEMENT OF FACTS

3. Grubb acknowledges the following facts as correct:

3.1 At all material times, Grubb was registered as an authorized official under the Act;

3.2 On October 5, 2004, Grubb submitted an offer to purchase (the "Offer to Purchase") to Danyluk to purchase five rental properties (the "Properties"), three of which were located in Winnipeg and two in Brandon, Manitoba. The Offer to Purchase described the vendor as Homeland Holdings and the purchaser as 6267131 Canada Corp., operating as A-1 Properties Solutions;

3.3 Homeland Holdings was a business owned by Danyluk and 6267131 Canada Corp. operating as A-1 Properties Solutions was a business owned by Grubb;

3.4 The purchase price ("Price") for the Properties was left blank in the Offer to Purchase;

3.5 Danyluk and Grubb verbally agreed Danyluk would take back a mortgage against the Properties for \$90,000 and that Grubb would be responsible for payment of all the existing mortgages against the Properties. Danyluk and Grubb also agreed that there was also to be adjustments on utilities, taxes and rents satisfactory to both parties. The Offer to Purchase was executed by Grubb;

3.6 Notwithstanding the Offer to Purchase was not executed by Danyluk and that the price was never finalized in writing, Grubb took possession of the Properties on October 5, 2004 and assumed responsibilities for collecting rents and making utility and mortgage payments;

3.7 Grubb began collecting rents for some of the Properties on November 1, 2004 and was to begin making all payments on the existing mortgages against the Properties and make all utility payments as well;

3.8 A condition of the Offer to Purchase was that Danyluk was to pay \$8,500 to Grubb for repairs to the Properties. These repairs included the installation of a fire escape on one of the Properties which was located in Brandon. Danyluk provided Grubb with payments of (i) \$5,000 on October 7, 2004; (ii) \$2,000 on October 13, 2004; and (iii) \$725 on October 31, 2004 (the "Payments") which monies were provided to Grubb towards this obligation;

3.9 Grubb did not use the Payments provided to him by Danyluk for the repairs set out above. Instead, Grubb spent approximately \$4,000 of the Payments to

purchase another property through his numbered company. Grubb failed to account to Danyluk or Staff of the Commission as to the use of the remaining Payments;

3.10 In or about mid-November, 2004, Danyluk became aware that mortgage payments to be made by Grubb under the Offer to Purchase were not being made and subsequently foreclosure proceedings had begun against the three Winnipeg Properties. As a result, Danyluk took the Properties back from Grubb in or about January, 2005;

3.11 Title to the Properties was never transferred to Grubb or A-1 Properties Solutions;

3.12 The repairs for which Danyluk provided Grubb the sum of \$7,725 were not completed;

3.13 Danyluk demanded return of the Payments from Grubb and an accounting of how the monies provided were used. Grubb failed to provide the requested accounting and refused and/or neglected to return the Payments received to Danyluk notwithstanding he acknowledged to Danyluk that he was obligated to do so;

3.14 Grubb acknowledges he is not currently registered under the Act in any capacity and has not been so since August 1, 2006.

ACKNOWLEDGEMENTS

4. Grubb acknowledges that he failed, within a reasonable time, to account properly for the Payments and pay over to Danyluk the Payments after he turned the Properties back over to Danyluk. Grubb further acknowledges Danyluk was entitled to return of the Payments.

UNDERTAKING

5. Grubb undertakes and agrees to the following:

5.1 Grubb will make a one-time payment to the Treasury of the Province of Manitoba in the amount of \$1,000;

5.2 Grubb undertakes not to apply for any registration under the Act for a period of three years from the date of this Agreement.

ORDER

6. Grubb consents to an order by the Commission (the "Order") that:

6.1 The Agreement be approved;

6.2 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.

WAIVER AND PROCEDURE FOR APPROVAL OF SETTLEMENT

7. Staff and Grubb 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 Grubb hereby waives his right to a full hearing and appeal of this matter.

7.1 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 Grubb will not raise in the Proceedings or in any other proceeding the terms of the Agreement;

7.2 Staff and Grubb 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;

7.3 Grubb 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;

7.4 Grubb further agrees that if the Commission approves this Agreement and the Consent Order is made upon the terms set out in this Agreement, Grubb will not make any statements inconsistent with the terms of this Agreement.

DATED at ~~Winnipeg~~ "Leaf Rapids", Manitoba this "24th" day of "October", 2007

"Linda Heath"
Witness

"Jeffrey Grubb"
Jeffrey Grubb

DATED at Winnipeg, Manitoba this "25" day of "October", 2007

Staff of The Manitoba Securities Commission

Per: "Douglas R. Brown"
Director, Legal and Enforcement