



PERVEZ TAGARI

APPEAL FROM A PROPOSAL OF THE REGISTRAR  
UNDER THE *REAL ESTATE AND BUSINESS BROKERS  
ACT, 2002*, S.O. 2002, c.30, Sch. C

TO REVOKE REGISTRATION

TRIBUNAL: ELIZABETH L. SPROULE, Vice-Chair

APPEARANCES: CHRISTOPHER THIESENHAUSEN, Counsel, representing  
the Applicant

GEORGE P. DRAMETU, Counsel, and JONATHAN  
HURTER, Paralegal, representing the Registrar, *Real Estate  
and Business Brokers Act, 2002*

DATES

OF HEARING: April 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 19, May 26, 2011 Toronto

### REASONS FOR DECISION AND ORDER

#### BACKGROUND

This matter is an appeal from a Notice of Proposal (the "Proposal") of the Registrar, *Real Estate and Business Brokers Act, 2002* (the "Registrar" and the "Act"), dated March 12, 2010, and two Supplemental Proposals issued July 26, 2010 and December 20, 2010, to revoke the registration of Pervez Tagari as a broker under the Act. The reasons for the Proposal can be summarized as follows:

1. In the Registrar's opinion, the Registrant is not entitled to registration because the Registrant has made false statements on his applications for registration.
  - i) For greater particularity, the Registrant has provided false information about being engaged or employed in another business, occupation or profession.

2. The past conduct of the Registrant affords reasonable grounds for belief that the Registrant will not carry on business in accordance with law, and with integrity and honesty. For greater particularity:
  - i) the Registrant has knowingly traded properties at artificially inflated prices;
  - ii) assisted in the creation and/or submission of false and/or fraudulent documents in furtherance of real estate trades;
  - iii) failed to deliver and/or deposit documents with the brokerage that employs him; and
  - iv) the Registrant was involved in the sale of a property which was grossly misrepresented by the Registrant for the purposes of obtaining an artificially inflated mortgage. The property shortly thereafter sold by power of sale at a significant loss to the financial institution.

The Applicant was registered as a salesperson under the Act on March 9, 1993, and was employed by 'Real Pro Realty Inc.' In January of 1995 the Applicant was employed by Royal LePage Homeward Inc. (subsequently renamed "Homeward Realty Inc.", hereinafter "Homeward Realty"). In June 1995 the Applicant was registered as a broker under the Act. The Applicant remained employed with Homeward Realty until the end of April 2007. On May 1, 2007, the Applicant was employed as a broker by "The Tagari Team Realty Inc." ("Tagari Team Realty"). The Broker of Record for this brokerage was the Applicant's spouse at the time. On July 16, 2008, the Applicant began his employment with Coldwell Banker Properties Unlimited where he has remained until the present.

## ISSUES

- 1) Does the Applicant's conduct afford reasonable grounds for belief that he will not carry on business in accordance with the law and with honesty and integrity?
- 2) Did the Applicant breach s.10 of the Act and if so, does this breach disqualify him from registration?

## EVIDENCE AND FACTS

The evidence of the Registrar consisted of documentation and the testimony of twenty witnesses. These included eight registrants, Consumers A and B, David Tredrea, an investigator with the Real Estate Council of Ontario ("RECO"), Sheila Wilson, investigator with the Royal Bank, JoAnn Swain, RECO investigator, Gerald Hunt, RECO investigator, Richard Cavanagh, senior investigator with Scotia Bank, Maritsa Pabon, former RECO employee, Jacqueline Osmond, Forensic Documents Examiner with the Ministry of Community Safety and Correctional Services, Shahin Saleem, Broker of Record for The Tagari Team Realty Inc., William Hunter, RECO investigator and

inspector, and Roy Murata, Manager, Data Service/Senior Business Analyst, Toronto Real Estate Board.

The evidence of the Applicant consisted of documentation, his testimony and the testimony of the following seven individuals: Relative A and B, Kay Ramnarain, Branch Manager Scotia Bank, Billi Periku, Broker of Record for Coldwell Banker Properties Ltd. Reality, Zeeshan Sarfraz, web site designer, Guy Masters, real estate salesperson and Ghulam Rabbani, an acquaintance of the Applicant.

The following is a summary of the relevant evidence. It has been organized according to the issues where appropriate.

### **Past Conduct**

It has been alleged that the Applicant was involved in nine different real estate trades in 2006 and 2007 which involved a range of questionable conduct. Mr. Gerald Hunt, a RECO investigator, was assigned to investigate the conduct of the Applicant. At the outset of his evidence he identified some of the typical elements/conduct involved in mortgage fraud namely: the inclusion of false information and a false picture in the MLS listing to make the property appear more valuable, the inflation of the selling price and the use of false documents to obtain mortgage financing.

The following is the evidence and the Tribunal's findings with respect to each of the alleged questionable trades.

### **Property 1<sup>1</sup>**

Property 1 was a condominium unit that the Applicant listed for sale on April 7, 1996, for \$97,900. He was working for Homeward Realty at the time. The property had previously been listed by another agent at a different brokerage for \$99,900. This listing had an expiry date of April 8, 1996, so it would appear that the Applicant's listing overlapped this listing by one day. The Applicant pointed out that the previous listing indicated that it had been terminated.

There are only a couple of differences in the details provided in the first listing and that of the Applicant's. The taxes quoted are the same amount but are indicated for different years: the Applicant indicates they are for the 1996 year, previously it was indicated the amount related to 1995. The Applicant has also included dimensions for a utility room previously not mentioned. This unit sold on May 28, 1996 for \$93,000. In April of 1999 the Applicant had the listing for this property again. It was listed for \$114,800 and sold for \$114,500 on June 6, 1999. Mr. Tagari himself was the purchaser and he took title on August 5, 1999.

On June 2, 2000, slightly less than a year later, Mr. Tagari transferred the property to Relative A for \$140,000.00. A mortgage was put on the property in the amount of

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<sup>1</sup> Exhibit 3, tab 4 a-d

\$137,987.00 at that time. Relative A testified that he still lives in the unit. He indicated he purchased the property in 1999. He did not recall who provided the down payment but he knew who the mortgagee was. His explanation for the increased amount he paid for the property, \$25,000 in 10 months, was because it was 'fully renovated' with new appliances and bathrooms. There was no evidence that the mortgage was ever in default.

Mr. Tagari testified that he bought the condominium unit thinking his parents would live in it. They did for a short period of time and then moved to the U.S. When they moved out, he upgraded the unit. At first he thought he would live in it, then Relative A got married and was interested in buying it. Mr. Tagari testified he spent \$22,000 in renovations and the price he sold the property to Relative A for was based on its cost plus the cost of the renovations.

### Conclusion

Based on the evidence the Tribunal cannot conclude that the increase in the sale price of the unit was not justified and therefore does not find that this trade in real estate involved an artificially inflated price.

### **Property 2<sup>2</sup>**

Property 2 was listed for sale by Barbara Mauti, an experienced salesperson, for \$319,900 on April 6, 2006. This was a second listing for this property at this price; it had failed to sell during the previous listing. It eventually sold for \$305,000 on April 21, 2006, with a closing of May 4, 2006. Ms. Mauti testified that the house needed a lot of work, that the kitchen was at basement level and needed to be renovated. She had held many open houses for this property and had had difficulty selling it.

Ms. Mauti was contacted by her client the vendor and advised that the property had apparently sold for \$484,000 less than two weeks after she had sold it and it had not been renovated. The client of course was not happy about this and Ms. Mauti could offer no explanation as to why the selling price should be so high 12 days after her client's sale.

Mr. Guy Richard was the agent that acted on behalf of the individual that purchased the property from Ms. Mauti's client. Mr. Richard testified that the purchaser wanted to re-list the property immediately, that he had indicated that he was going to do cosmetic work and then list it for \$500,000. Mr. Richard felt something was going on and did not want to participate with whatever it was, so declined to list the property.

The Applicant entered into a listing agreement with the new owner of Property 2 on May 15, 2006. The listing was to be effective as of May 16, 2006, and the sale price on the listing was to be \$489,900. The listing created by the Applicant contained a number of different features than the previous April listing. In his listing, he indicated there were 10

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<sup>2</sup> Exhibit 3 tab 5

rooms rather than 8, 6 bedrooms rather than 3 (although he provided no dimensions of those additional bedrooms or where they were in the house), 3 bathrooms rather than 2, and 2 kitchens rather than 1. The taxes were also shown to be \$1,600 higher although they were for the same year. The comment section was also different and included the following statements: "Completely Gutted And Renovated House", "Showings starts (sic) from May 26", "Note \$1000 Bonus To Selling Broker If Sold Before June/10". Royal LePage Homeward (the predecessor to Homeward Realty) was listed as both the listing and cooperating brokerage, and the Applicant as the broker for both.

An agreement of purchase and sale prepared by the Applicant was executed by a buyer and the vendor of Property 2 on June 5, 2006, (the "Agreement of Purchase and Sale") with a closing date of June 16, 2006. The Applicant acted on behalf of both parties. The Applicant testified that he had shown the buyer the property, although he did not indicate exactly when. He also testified that he never saw the renovations completed although he did see boxes of new cupboards around. There were no terms in the Agreement of Purchase and Sale which required that any renovations be completed before the closing. The Applicant testified that he should have put in a clause to that effect as that would have alerted the bank. There were two conditions, one relating to financing and the other with respect to an inspection, which were to be satisfied within 5 days or could be waived. Both appear to have been waived but when is not clear. The deposit of \$5,000 was to be held by the Vendor's solicitor.

Notwithstanding that the Agreement of Purchase and Sale that the Applicant admits to creating and providing to his brokerage indicates that the transaction was to close June 16, 2006, title was transferred on June 7, 2006. The Royal Bank provided the mortgage funds for the transaction in the amount of \$472,444. The agreement of purchase and sale provided to the Royal Bank indicated the same sale price, \$484,000 but was signed May 10, 2006, and the completion date was May 31, 2006. The deposit was the same amount but to be held by Royal LePage Homeward. The bank was also provided with a print off of a listing from the website 'mls.ca'. The print-out appears to be from May 31, 2006. The listing indicates the Applicant as the listing broker, and Royal LePage Homeward as the listing brokerage. Although the format is different it is indicated on the listing that the data is provided by the Toronto Real Estate Board (TREB), and reference is made to the MLS listing number assigned to the Applicant's listing. It is clear that the written comments describing the property are in fact those included in the listing agreement prepared by the Applicant for the TREB system.

The listing and sale of Property 2 at such a high price in such a short period of time caused concern for some well established agents in the area. James Dobb, an agent who has lived and worked in the area for years, and who drove by the property on a daily basis, could not see any reason to justify the price increase and suspected that something was wrong. He first contacted the police and then was referred to RECO. Phyllis Lamont, another salesperson in the area, also sent in a complaint to RECO after noting that the sale price of this home was out of line for the area, particularly in view of the condition of the house. She testified that the house had original windows and the roof was not in good shape. She contacted CMHC to warn that she thought this was a

fraudulent sale but was told that the transaction was completed and the monies advanced. Ms. Lamont testified she was advised that the transaction closed May 29. The sale was reported June 7, 2006, and the reported closing date was June 16, 2006. The actual closing date was earlier as the transfer of title was registered June 7, 2006.

Ms. Marina Heler was a real estate agent at the time and when she saw the listing she wanted to view the house. She called the number provided for the listing broker and provided her information and was advised that the broker would call back. She never heard back from the listing broker.

Deirdre Gallibois was the broker of record for Royal LePage Homeward at the time of the trade involving Property 2. The Applicant had worked for this brokerage for approximately 12 years and was a top seller. Ms. Gallibois was contacted by RECO in 2006. She reviewed the agreement of purchase and sale for Property 2, and other documents relating to the trade, which had been filed in the brokerage's trade file.<sup>3</sup> She recalled mentioning to the Applicant that the deposit should not go to the Vendor's solicitor. She confirmed that the box regarding representation should have been filled out. She also confirmed that the agreement looked like a private sale as there was no indication of the brokerage and the deposit was going to the Vendor's solicitor. The trade file also included a 'Confirmation of Co-operation and Representation' agreement, signed by both the Vendor, Purchaser and the Applicant twice, dated June 5, 2006, as well as a 'Working with a Realtor' form which did not appear to be completed correctly.

Ms. Gallibois compared the trade file Agreement of Purchase and Sale and that given to Royal Bank and noted that the deposit was to be paid to the brokerage in the latter, that the offer was signed May 10, 2006, prior to the listing of the property, and the completion date was May 31, 2006. She also confirmed that it would appear that showings started after the property was sold.

Jo Ann Swain is a RECO investigator. She was assigned to investigate the complaints relating to Property 2. Ms. Swain reviewed two listing agreements, one indicating it sold for \$305,000, closing May 4, 2006, and a subsequent one indicating it sold for \$484,000 on June 7, 2006.<sup>4</sup> She also retrieved the title documents from the land registry office and determined that the Royal Bank had advanced funds on the property. Ms. Swain then contacted Sheila Wilson, an investigator with the Royal Bank.

Ms. Swain interviewed the Applicant on July 20, 2006. She made notes of the interview at the time.<sup>5</sup> The Applicant advised Ms. Swain that he attended the property and listed the property at the request of the owner. He indicated to her that at the time he was there, the property was under construction. The listing price was what the owner wanted, taking into consideration what he paid for the property, the renovation expense, real estate commission and his profit. The Applicant indicated to Ms. Swain that he was called by the Buyer, who saw the property on the internet, and he showed him the

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<sup>3</sup> Exhibit 3 tab L

<sup>4</sup> Exhibit 3 tab a, b

<sup>5</sup> Exhibit 3 tab m

property. The buyer liked it and said he would call back, which he did, and asked the Applicant to prepare an offer. The Applicant prepared the offer the same day and had the buyer sign it. He took it to the Vendor who signed it back, then back to the Buyer who signed it back and ultimately to the Vendor who accepted it. The Buyer's signature was witnessed by the Applicant's partner at the time, and the Vendor's signature was witnessed by another registrant, both of whom were in training. It was Ms. Swain's evidence that the Applicant advised her that the work 'done' by May 26 included work done to the basement: the basement was excavated to increase the height of basement from five feet to eight feet. The Applicant also indicated to Ms. Swain that the kitchen was also renovated and an apartment unit was made in the basement. The buyer was going to live in the top and rent out the bottom. With respect to the quick closing, the Applicant indicated to Ms. Swain that he confirmed with the buyer if he could close that quickly and the buyer said that he could.

Sheila Wilson is an investigator with the Royal Bank. She attended the property after the mortgage funds had been advanced and she was alerted to the potential fraud. The property was vacant although it was to have been owner occupied. Further investigations of the documents provided by the purchaser, bank statements and employment confirmation, were subsequently determined to be fraudulent. The property was eventually sold under power of sale for \$290,000.

The Applicant testified that he viewed the property before he listed it, that he was told by the Vendor that work was to be completed and he believed the Vendor. The day after seeing the property the Applicant loaded the listing onto the system and checked comparables at that point and found there to be a wide range. He testified that he did note at that time that it had just sold for \$305,000 and acknowledged that he 'had questions.'

The Applicant further testified that he showed the property to the buyer one or two days prior to the buyer making the offer on June 5, 2006. At the time of the viewing, painting had been done and light fixtures were being changed and boxes of cupboards were present. The work was to have been done by May 26 but the Vendor told the Applicant that he had had problems with the construction 'guy'. It was the Applicant's evidence that when he spoke to Ms. Swain he told her that the work was supposed to be done by May 26, not that it had been done. The Applicant acknowledged that when he listed the property, he provided false information as he knew the work was not done.

### Conclusion

There is no dispute that the purchase and sale of Property 2 involved mortgage fraud, the question is whether the Applicant's role amounted to wrongdoing or was he simply duped. Based on the Applicant's own testimony, he created a listing for the property that stated it was 'completely gutted and renovated'. He did this knowing at the time that none of the work had been completed. In addition to this description, he misstated the number of rooms, bathrooms, and kitchens. He has testified that he believed that the work was going to be done, including the excavation of the basement to increase

the ceiling height from five to eight feet and the replacement of the kitchen, and it was the totality of these renovations that justified the listing price of \$489,900. The Applicant has also testified that when he showed the property to the Buyer there had been some painting done, light fixtures were being changed and there were cupboards in boxes in the premises, but he never saw the substantial work completed. Notwithstanding this, he prepared an offer for the Buyer to purchase the property at almost the listing price, with no conditions requiring that any of the work be done, and with a closing date 11 days later.

The Tribunal finds that the Applicant knowingly created an MLS listing containing false information and either he knew, or ought to have known, that information in listing agreements is relied upon by individuals and banking institutions. The Royal Bank relied upon a print out from mls.ca but the information came from the same MLS listing which was loaded onto the TREB system by the Applicant. The false description prepared by the Applicant "Completely Gutted and Renovated House..." found its way into the hands of a mortgage lender, whether the Applicant intended it or not. In the Tribunal's opinion willingly creating and posting an MLS listing with false information was not an act of honesty or integrity.

The Applicant knew the property's value un-renovated was substantially less than the listed price. He had contracted and undertaken to provide representation to both parties and protect their interests equally<sup>6</sup>. The Applicant was an experienced salesperson at the time of this transaction, a top seller in fact, and does not appear to be lacking in intelligence. Clearly, no competent or honest salesperson would see a purchaser offer to pay for such substantial improvements which were not in existence without ensuring the purchaser had some recourse. The only sense that can be made of what occurred is that the purchaser did not care whether there were any renovations done, as they were not a legitimate purchaser, and the Applicant knew it and drafted an agreement intentionally not referencing outstanding work as to avoid alerting the bank to the true state of affairs. The Tribunal finds the Applicant knew Property 2 was being traded at a highly inflated price and he willingly and knowingly played a role in that.

#### **Properties 3 and 4**

The evidence of these two properties will be dealt with together as both properties were purchased by the Applicant's Relative B around the same time and both were subsequently sold by power of sale.

Property 3 was listed for sale by the Applicant on June 11, 2007, for \$399,000. It was described as a 'Completely Renovated House'. Property 3 was purchased by the Applicant's Relative B on July 13, 2007, for \$395,000 pursuant to an offer to purchase dated June 20, 2007. The Applicant acted as agent for both Relative B and the Vendor. Relative B confirmed she took title to Property 3 approximately three days before taking title to Property 4.

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<sup>6</sup> Exhibit 3, tab 5L, Confirmation of Co-operation and Representation



Relative B testified that she was buying the properties at that time because she had the money and she knew that the market was going up. When questioned as to the specifics of each transaction the witness admitted to being a little mixed up with the two properties. At the time of the purchase of these two properties the witness was living with her parents and 3 young children and apart from her husband. She testified she worked in a day care at the time of the purchases and earned approximately \$2,100 per month, after taxes. She testified that she had saved some money towards purchasing the home(s). Her evidence as to how much was saved, varied. She first mentioned she had saved a couple of thousand dollars, and then she stated she had close to \$14,000.00 from gifts, family and her work income. She then testified that the bank statement for a Scotiabank account with an opening balance of \$32,954.52 as of May 24, 2007, was the amount she had. Relative B obtained mortgage funding from the Royal Bank in order to purchase Property 3 in the amount of \$387,070.38. The monthly payments were \$2,147.63.

Relative B testified that she went to see Property 3<sup>7</sup> and found it to be in very good condition and renovated. When asked how she paid for it, in examination in chief, the witness said "I paid money". She subsequently testified that she went to the Royal Bank. It was her evidence that her selection of the Royal Bank was for no particular reason. She testified that on her second meeting with an individual at the Royal Bank she provided a letter from her employer, a daycare business.

The records of the Royal Bank of this transaction do not include the employment letter described above. Instead the bank has documentation on record from a company that Relative B testified she did not recognize: "Amy Techno Inc.". The bank had been given a letter from the company "Amy Techno Inc." confirming Relative B's employment and her annual income of \$98,000. The bank was also provided with a pay stub that was allegedly from this company<sup>8</sup>, indicating Relative B's name and her SIN number. Relative B testified she did not recognize this document. The witness confirmed a Solicitor Mr. W acted on her behalf in this transaction and that she signed the direction which was given to the mortgage lender to make all the proceeds of the mortgage payable to Mr. W.

Sheila Wilson testified that according to the electronic loan application, Relative B was referred to the Royal Bank by the Applicant.<sup>9</sup> The address given for the residence of Relative B was the same address of the Applicant at the time of his 2007 application for registration. Ms. Wilson confirmed that it has been determined that the documentation provided to the Royal Bank, including the letter confirming employment and income, and the bank account statements, were all false. The mortgage payments were made for just under a year then went into default. According to Ms. Wilson the bank suffered a significant loss as a result of this transaction, approximately \$250,000.

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<sup>7</sup> Exhibit 5 tab 11

<sup>8</sup> Exhibit 5 tab 11h, pg. 54

<sup>9</sup> Exhibit 5 tab h pg. 23

William Hunter, an investigator and inspector with RECO conducted a review of some hard drives obtained from Tagari Team brokerage sometime after it closed. This review revealed that the hard drives contained numerous bank statements, from numerous different banks, sometimes in the names of individuals and sometimes not. There were also statements of earnings and letters confirming employment for a number of individuals, although the employer was not identified in all cases. A number of these documents were found to be of particular interest. There was a letter confirming employment of an individual at a business RR Tax, Accounting & Financial Services which had the same address as the Tagari Team brokerage.<sup>10</sup> There was a bank statement(s) in the name of an individual for which there was no evidence that he was related or connected with the Applicant, yet the address was shown as the Applicant's matrimonial home and the statements indicated deposits had been made into the account from 'Shawn Graphics'. There were pay stubs for two different employees of Shawn Graphics, namely Relatives C and D of the Applicant, both with an address which was the Applicant's family residence at the time.<sup>11</sup> Lastly, there was a letter dated August 27, 2007, confirming the employment of Shahin Saleem as a Graphics Designer since March of 2000, allegedly signed by the Manager of an unidentified company, with a contact number the same as the Applicant's cell number at that time.<sup>12</sup> Mr. Hunter testified that he could not confirm who had had access to the computer system.

Relative B confirmed her signature on an authorization for the Royal Bank to debit her Canada Trust Account the amount of \$2,231.23 monthly.<sup>13</sup> Subsequently a request was made to change the mortgage payments to a Royal Bank Account. In cross-examination Relative B was asked if she was paid by direct deposit while she was working at the day care, to which she answered "Ya, I think". She was asked about her bank accounts and where the mortgage was paid from. She testified she had two accounts, the mortgage was paid from a Scotiabank account but she was not sure which one. In cross examination Relative B confirmed that the bank statement of a Scotiabank account given to the Royal Bank, which showed a balance of \$23,648.54, accurately reflected the amount of money Relative B had in the account.<sup>14</sup> When it was put to her that the account statements were false the witness then indicated that she would have to check with her spouse, that she knew she had money in the account but she was not remembering how much and she did not want to commit to whether the amounts were accurate or not.

Relative B was asked why she had provided the Applicant's telephone number in her application for 'Habitational Insurance'.<sup>15</sup> Her explanation was that she lives with her parents who do not speak English and are unable to talk on the phone and she could not tell them not to pick up the phone.

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<sup>10</sup> Exhibit 11 tab 10, pg 27

<sup>11</sup> Exhibit 11, tab 10 pg 3

<sup>12</sup> Exhibit 10 tab 16 B

<sup>13</sup> Exhibit 5 tab 11 h, pg. 63

<sup>14</sup> Exhibit 5 tab h pg 59

<sup>15</sup> Exhibit 5 tab h pg 112

Relative B testified that there were a couple of issues that prevented her from moving into Property 3 so she decided to rent it as two units. According to the witness the upstairs tenant was the Vendor she purchased the property from, who lived on disability. This tenancy lasted for about one year. Then the property was damaged as a result of a fire, according to Relative B. The kitchen cupboards, floors and walls were damaged and the witness did not have funds to do the repairs so she just "let it go". The lower tenants moved out as well. The witness testified that she was not able to make an insurance claim for the damage to the property as the premium had not been paid. She acknowledged receiving a letter from the bank asking her to pay, but which she did not respond to it. The witness was not clear whether she had talked to the Applicant about this situation. Nor was she clear as to what ultimately happened to the property. When asked if the bank had sued her she responded "Not that I know". The Applicant testified that he did not speak to Relative B at the time the property was sold at a loss, although he indicated he was aware that the tenant had left.

Mr. John Perkins, a registrant, conducted an appraisal of Property 3 prior to it being sold under power of sale in February of 2009. He described the property as being in 'poor shape'. He did not note any damage by fire. After reviewing comparables Mr. Perkins concluded that the market value of the property was \$185,000.00.<sup>16</sup> The listing created by the Applicant for this property in June of 2007 indicated the house was 'completely renovated' and had a dining room. It was Mr. Perkins evidence that the property had only been renovated in a rudimentary manner and did not have a dining room. The pictures taken of the property supported his comments. It was the Applicant's evidence that when he saw and listed Property 3 it was "updated".

Mr. Hunt reviewed the title history of Property 4, a condominium unit.<sup>17</sup> The property was transferred on November 6, 2002 for \$136,500. It was listed for sale through the Applicant on September 26, 2006 for \$214,900. It was described as a "Completely Renovated Unit". It was listed again in May 2007 for \$184,900. On July 16, 2007, three days after Relative B purchased Property 3, she purchased Property 4 for \$182,500, with a registered charge of \$178,836. The Applicant acted for both the Vendor and his Relative B in that transaction. On October 23, 2009, the Property was sold under of power of sale for \$130,000.

Relative B testified that she saw Property 4 before she purchased it and thought it was "not bad at all", that she liked the unit. However, it was two stories so she would not have lived in it as one of her children was in a wheelchair on and off. Relative B testified that a friend had given her \$4,500 and she obtained a mortgage, which she testified she thought was from the Royal Bank of Canada. In fact the mortgagee was Desjardins Credit Union Inc. The witness also confirmed that solicitor W, who acted on her behalf in her purchase of Property 3, acted for her in the purchase of Property 4.

It was Relative B's evidence that she lost the property following problems that arose with the tenants. There had been four male tenants, all deaf and dumb. They paid rent

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<sup>16</sup> Exhibit 9 tab 3

<sup>17</sup> Exhibit 4, tab 6

for about a year and then there were problems with the appliances, and with communication, and they moved out.

Relative B was asked about Relative C and she indicated that Relative C lives in California. She was asked if relative C has purchased property and the witness indicated that it would be best to ask Relative C about that.

The Applicant testified that he believed the price Relative B paid for Property 4 was fair at the time. He suggested that when it was sold under power of sale it was listed as a 3 bedroom unit which was not accurate, the inference being that it was sold below its value.

### Conclusion

The Applicant's position with respect to the trades involving his Relative B and Properties 3 and 4, are that they were bona fide trades at the fair market value. Relative B at the time she purchased these two properties was separated from her husband, living with her parents with 3 dependent children, with a net income of approximately \$2,100 a month. In a matter of 3 days she purchased two houses, borrowing in total approximately \$565,906.38. She was unable to meet the payments required and both properties were sold by power of sale.

The Applicant did not suggest in his evidence that he was unaware of Relative B's situation. His counsel posed the question that if the Applicant was going to engage in fraud why would he involve a close relative? Clearly the Applicant was not operating with the interests of Relative B in mind, otherwise he would not have assisted her in purchasing two properties which she could not afford, even assuming fraud was not involved.

The Tribunal did not find the evidence of Relative B credible. Her explanation as to how she funded the purchases was inconsistent and confused, she did not know how much money she had, what accounts the mortgage was paid from, who the mortgagee of Property 4 was and at times her answers appeared so simple that the Tribunal could not but form the impression that she did not have the ability to orchestrate the purchase of these two properties on her own.

The Applicant is an experienced realtor. Relative B earns only a modest income. He would have to have known that someone earning as little as Relative B could not qualify to borrow over half a million dollars. To obtain financing false documents had to be created and the evidence before the Tribunal is that the investigations carried out on the hard drive of the Tagari Team computers revealed that sample bank statements, employment letters, and paystubs similar to what was submitted on behalf of Relative B were kept on file.

Finally, the description included in the MLS listing by the Applicant that Property 3 was 'Completely Renovated' was, in the Tribunal's opinion, clearly untrue. In his testimony

the Applicant indicated that when he saw the property it had been 'updated'; this is not the equivalent of 'Completely Renovated'. The report of Mr. Perkins confirms that there were only rudimentary renovations. The Tribunal concludes that this description was used to support the inflated value being placed on the home. The property had been on the market a number of weeks before Relative B purchased it. There is no evidence there were competing offers. Relative B paid almost the asking price for Property 3 although the Applicant would have known and Relative B would have seen that the property was not completely renovated. This does not make sense unless there was no interest in getting the house at the best possible price, which is how a bona fide purchaser would act.

The same approach was used for Property 4. It is described as 'completely renovated' and Relative B agreed to pay almost the asking price.

The Tribunal concludes that these two properties were listed at inflated prices and that the Applicant knowingly assisted his relative to purchase these properties at inflated prices. The Tribunal finds that the Applicant knew that Relative B would not be able to finance both these properties at the same time through legitimate means, and given Relative B's lack of sophistication and there being no indication that anyone other than the Applicant was involved with Relative B's purchase, and the fact that similar type bank statements and employment letters as those provided were on file, the Tribunal concludes that it is more likely than not that the Applicant played a role in obtaining the mortgage financing using false documents.

### **Property 5**

This property was listed for sale by the Applicant on April 2, 2007, while he was still working for Homeward Realty. On May 1, 2007, the Applicant transferred his registration under the Act to Tagari Team Realty and subsequently the listing of Property 5 was changed to that brokerage. The property was listed for \$319,000. This price was eventually reduced to \$305,500 on July 3, 2007.

On July 5, 2007, Relative C made an offer to purchase Property 5 for \$305,000. There were a number of conditions set out in the offer. Notwithstanding that the Vendor and Relative C had both signed a 'Confirmation of Co-operation and Representation' agreement, which stated that the brokerage Tagari Team would represent the interests of both parties, the offer indicates that the brokerage acted only of behalf of the Vendor.

A 'Registrant's Statement as a Buyer' was also completed in this transaction. Relative C was identified as being a broker representing the Tagari Team although she was not a registrant at the time. In that document Relative C declared "I am buying this property on (*sic*) my sister (*sic*) name because of guarantee sale within 90 days or I will buy it".<sup>18</sup> The brokerage was to receive \$18,300 in commission for this trade.

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<sup>18</sup> Exhibit 4 tab 7 G

The purchase of Relative C closed July 27, 2007. A charge was registered in the amount of \$279,990. Before actually owning the property, Relative C entered into a listing agreement with the Applicant to list the property for lease. The property was leased. Relative C sent notice to Hydro to bill the tenant, and included a cell phone number, which in fact was the Applicant's number.

The Applicant testified that the sale of this property was a guaranteed sale. He, however, did not want to put the property in his name because of his bankruptcy. Relative C lives in California but is a Canadian citizen married to an American. It was the Applicant's evidence that on July 5, 2007, Relative C was here, living with her parents. The Applicant asked if anyone wanted to buy the property, (the Tribunal assumed the Applicant meant he asked amongst his relatives) and this led to Relative C's purchase. The property was sold by Relative C March 18, 2010 for \$340,000.

### Conclusion

The documentation involving this property appears to include some irregularities. The most puzzling is the disclosure statement signed by the buyer, Relative C. This document does not make sense as it is. The document is not complicated. The Applicant in cross-examination testified that a mistake had been made filling it out. The Applicant was asked if he filled it out to which he said "No comment". The disclosure suggests the Applicant was buying the property in his sister's name. It was put to the Applicant that he is the one that owns and looks after the property. His response was "No comment on that". It is difficult in the face of this response not to conclude that the Applicant is the beneficial owner of the property, it is a simple question and if he did not own it he should have simply stated no. His reluctance to be forthright brings into question some of his previous testimony. However, there does not appear to be sufficient evidence to confidently conclude that Relative C did not execute the trade documents or that there were fraudulent documents provided to the mortgage lender, or that the value of the property was inflated as found with other trades.

### **Properties 6 and 7**

Property 6 was the Applicant's matrimonial home. Shahin Saleem was the Applicant's spouse and the Broker of Record for Tagari Team Realty. Title to Property 6 was initially transferred to Ms. Saleem on May 31, 1999, for \$250,000. She was not legally married to the Applicant at the time. She granted a power of attorney to the Applicant on April 18, 2000, which indicates he may deal with the property in any way that an attorney could lawfully do. The Applicant and Relative A were witnesses to Ms. Saleem's signature.<sup>19</sup>

In May 2007, Ms. Saleem and the Applicant agreed that Property 6 would be sold. It was listed with Tagari Team Realty for \$399,900 with the Applicant as the listing broker. Prior to the expiration of this listing a second listing took place with the Applicant as the representative for \$374,000. An offer was made on July 14, 2007 in the amount of

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<sup>19</sup> Exhibit 22

\$360,000, which was countered with an offer of \$370,000. Although there is a signature on the counter offer witnessed by the Applicant, Ms. Saleem testified that it is not her signature. She confirmed she agreed to sell the home for \$370,000. The counteroffer was accepted and the date of completion was fixed for August 31, 2007.

On August 30, 2007, Ms. Saleem attended the office of solicitor Mr. W and executed some closing documents. She admits to having signed a direction, undertaking(s) and declaration. She denies having ever signed the Agreement of Purchase and Sale for Property 6 or Schedule 'A' of that agreement. She also denied ever having signed any documents relating to the mortgaging of Property 6 other than when she purchased the property in 1999. According to the title record, the property had been mortgaged 3 additional times before its sale in 2007.

Ms. Jacqueline Osmond is a Forensic Documents Examiner with the Ministry of Community Safety and Correctional Services. The qualification of Ms. Osmond as an expert was not challenged. Ms. Osmond was asked to provide an opinion as to the authenticity of signatures on documents relating to the sale and mortgaging of Property 6. Ms. Osmond was provided with confirmed signatures of both Ms. Saleem and the Applicant. Ms. Osmond's conclusions were that the signatures on the Direction, Undertaking and Declaration signed August 30, 2007, were probably written by Ms. Saleem, and the signature on the Agreement of Purchase and Sale of Property 6 purporting to be the signature of Ms. Saleem was probably not written by her. Nor were the signatures on the Agreement of Purchase and Sale of Property 7, the Confirmation of Co-operation and Representation, the Registrants Statements as Buyer, Working with a Realtor form or Buyer Representation Forms.<sup>20</sup> These conclusions confirmed the testimony of Ms. Saleem.

The sale of Property 6 was completed on August 31, 2007. The trust ledger statement eventually provided to Ms. Saleem by Mr. W. indicated that \$318,751.32 had been paid out to discharge the first mortgage on Property 6 and that \$41,987.85 had been paid to Ms. Saleem.<sup>21</sup> This came as a surprise to Ms. Saleem as she had not received any such cheque and she believed the first mortgage, which was registered in 1999, was less than the purchase price at the time (\$250,000). After looking into the matter Ms. Saleem discovered that the mortgage had been increased a number of times over several years. Ms. Saleem testified that she did not complete any of the credit applications or mortgage documents on file with Scotiabank relating to the re-mortgaging of Property 6.

The title record indicates that a charge was registered against Property 6 on June 8, 2004 in favour of Scotia Mortgage Corporation ("SMC"). This was replaced by a subsequent mortgage registered November 18, 2005, also in favour of SMC. Finally, on April 2, 2007, a mortgage in the amount of \$313,861 in favour of SMC was registered against Property 6 in Ms. Saleem's name. Ms. Saleem testified that she was not aware of these mortgages and did not sign any documentation relating to them.

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<sup>20</sup> Exhibit 9 tab 2

<sup>21</sup> Exhibit 4 tab L

Property 7 was a condominium unit purchased in the name of Ms. Saleem on August 31, 2007, the same day that Property 6, the matrimonial home was sold. This property had a mortgage registered against it with Ms. Saleem as the mortgagor. Ms. Saleem testified that she did not sign the Agreement of Purchase and Sale for Property 7, although she was aware that the Agreement had been created. It was her evidence it was the result of the guaranteed sale policy of the Applicant at the time. She testified she was not aware of the loan purportedly provided to her to purchase the property or the mortgage subsequently registered and did not sign any documentation relating to a mortgage loan for Property 7.

Mr. Richard Cavanagh is a senior investigator with Scotiabank. He investigates fraud and other criminal offences against the bank. He was initially asked by Gerry Hunt of RECO to look into the mortgage file for Property 7. He provided numerous documents relating to mortgage loans allegedly applied for by Ms. Saleem and relating to both Properties 6 and 7.<sup>22</sup>

Ms. Kay Ramnarain is the manager of the branch of Scotiabank that dealt with the mortgages on Properties 6 and 7. Ms. Ramnarain signed as a witness to Ms. Saleem's signature on numerous documents. Ms. Ramnarain confirmed that when she was interviewed by RECO Counsel that she indicated that she had witnessed Ms. Saleem's signatures on the various documents relating to the mortgage increases on Property 6 over the years. In these proceedings Ms. Ramnarain testified that she never saw Ms. Saleem sign any of the documents, rather that the Applicant had requested and had been allowed to take the documents home with him. She indicated that she understood that he had a Power of Attorney (POA) and therefore would be allowed to do this. She understood that he was to sign his proper signature and an indication that it is signed with a POA, although this was not how the documents were signed. Ms. Ramnarain's explanation as to why her testimony differs from previous statements was that she misunderstood the question previously being put to her. She acknowledged that the POA that was relied upon was not properly registered against Property 6, it was registered against a different address, and had she noted this she might not have relied upon it.

Ms. Osmond was taken to various Scotiabank documents, including a credit application dated May 21, 2004, a charge/Mortgage signed May 17, 2004, and two Acknowledgement/Directions dated May 18, 2004. She provided her opinion that the signature of Shahin Saleem appearing on those documents was probably not written by Ms. Saleem.

The Tribunal notes that the Credit Application dated May 21, 2004, indicates that Ms. Saleem is employed by Shawn Graphics Design. Also included in the bank file is a letter, dated April 5, 2004, confirming that Ms. Saleem had been working with Shawn Graphics as an Accountant since June 2000. The Credit Application dated August 18, 2007, also indicates Ms. Saleem is employed at Shawn Graphics. There is no letter of employment in the bank files for the 2007 application. As noted earlier, a letter dated

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<sup>22</sup> Exhibit 12, tabs A and B



August 27, 2007, confirming that Ms. Saleem was a Graphics Designer since 2000 was on the hard drive reviewed. The name of the company does not appear on the letter, however, the Applicant's telephone number is given for the manager/owner of the company whose first name is the same as the last name of the individual signing the letter of employment in April 2004. There appears to be a clear connection between documents that the Applicant completed for bank loans in his wife's name and the computer files found. It was Ms. Saleem's evidence that she has never worked for Shawn Graphics, which evidence was not contradicted. Shawn Graphics is a business that has produced flyers for the Applicant.

The records of the bank indicate that there have been a number of cheques issued to Shahin Saleem in large amounts, presumably relating to the mortgage loans. On June 1, 2004, there was a cheque issued for \$66,340.00. There were two other cheques for \$16,550.45 and \$30,393.57.<sup>23</sup> Ms. Saleem denies receiving those cheques. She also denies receiving a cheque in the amount of \$41,987.85 which represented part of the proceeds of sale from the matrimonial home issued August 31, 2007. Much effort was put in by counsel for the Applicant to track down a copy of this cheque from the issuer and it was submitted into evidence on day nine of these proceedings, after the Registrar's case had closed. It was noted that there were two signatures on the back of the cheque and an account number.<sup>24</sup> One of the signatures was that of the Applicant and he confirmed in his testimony that he did in fact sign and deposit the cheque into a joint account. He also testified Ms. Saleem had also signed it. The signature that the Applicant suggests is that of Ms. Saleem appeared to the Tribunal to be similar to the signatures which appeared on the mortgage documentation which Ms. Osmond opined were most likely not Ms. Saleem's.

### Conclusions

Based on the evidence of Ms. Ramnarain, Ms. Osmond and Ms. Saleem, the Tribunal finds that it is more probable than not that the Applicant forged the signature of Ms. Saleem on a variety of documents, including the Purchase and Sale Agreements of Property 6 and Property 7, the mortgage documents for Property 6 and the cheque for the proceeds of Property 6 made payable to Ms. Saleem. The Tribunal finds that Ms. Saleem was not aware of the mortgaging of Property 6 in 2004, 2005, and 2007 and that the document provided to the bank confirming her employment at Shawn Graphics in 2004 was false and was provided to the bank by the Applicant.

### **Property 8**

The Applicant listed Property 8 for sale on July 11, 2006, for \$159,900. He was identified in the listing as the listing broker. On November 17, 2006, the property was transferred to the Applicant's Relative D for \$151,000.00.

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<sup>23</sup> Exhibit 12 tab C

<sup>24</sup> Exhibit 23a

On May 14, 2008, Property 8 was transferred to Consumer A for \$210,000.00 pursuant to an agreement of purchase and sale dated April 14, 2008, and subsequently amended to change the closing date from April 28, 2008, to May 9 2008. The Buyer's signature (Consumer A) on the agreement of purchase and sale appears to be witnessed by the Applicant.<sup>25</sup> The transaction was financed with a mortgage loan in the amount of \$211,470.00. According to a direction signed by Solicitor W who acted on behalf of Relative D in the sale, Relative D received \$22,263.68 of the proceeds, Centennial Group of Companies Ltd. received \$45,000.00 and Solicitor W received \$4,800, the balance went to pay out an existing first mortgage.

Consumer A testified that he played no part in this transaction that he became aware of it when he received a letter from the bank advising him that his mortgage application had been approved. This letter is dated May 9, 2008. Consumer A denies signing any mortgage documentation. Consumer A was advised by a friend to contact individual DS to arrange a business loan. This individual had Consumer A sign some documents but not those in support of the mortgage loan. After receiving the May 9, 2008 letter Consumer A contacted 'the law firm' and was advised to contact the Applicant. He has brought this situation to the attention of RECO, the police and the Law Society. It was Consumer A's evidence that he spoke with the Applicant once.

The Applicant testified that he was not involved in the sale of this property.

### Conclusion

The evidence before the Tribunal is that the Applicant witnessed the signature of his Relative D on an agreement of purchase and sale involving an individual who was being defrauded. Given the numerous transactions involving wrongdoing that the Applicant has been involved in it is difficult not to suspect he played a role in this, however, there is not sufficient evidence before the Tribunal to find this to be the case on the balance of probabilities.

### **Property 9**

David Tredrea is an investigator with RECO. He investigated a complaint filed by Mr. John Whyte, a real estate salesperson, regarding Property 9. Mr. Whyte had been approached by Consumer B regarding of the value of his farm he purchased the year before and was very distressed to find that the value was substantially less than he had paid for it. Mr. Whyte suspected that something wrong had occurred and filed a complaint.

Mr. Tredrea interviewed Consumer B and obtained a number of documents. He interviewed the mortgage broker, a Mr. B, who had processed Consumer B's mortgage and was provided with copies of the documents in his file. Mr. B indicated in his interview that Consumer B had been a referral of the Applicant. Mr. Tredrea identified the documents obtained from the mortgage broker. Mr. Tredrea had reviewed the

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<sup>25</sup> Exhibit 6 tab 12 D

mortgage documents with Consumer B and had been advised that many of the signatures on the documents were not his and some of the documents were false. Mr. Tredrea obtained copies of the documents in the trade file of Royal Lepage Homeward, the brokerage involved in the transaction, and reviewed those with Consumer B. Again, a number of signatures were identified as being false.

The Applicant listed Property 9 for sale for \$519,900 on or about June 1, 2006. The listing however does not reflect any of the true facts of Property 9. The Applicant's explanation for this is that he was duped by unscrupulous individuals who took him to one property and lead him to believe it was Property 9. Therefore, none of the details in the listing related to Property 9.

The property that the Applicant claims he was taken to was a property listed for sale at the time at a selling price of \$479,900 by another registrant. When the listing the Applicant prepared for this property is compared to the existing listing it is clear there are numerous inaccuracies in what the Applicant prepared. The following is a comparison between what the Applicant indicated in his listing and what was in the listing done by the salesperson with the actual listing.<sup>26</sup> The Applicant acknowledged he made a number of mistakes in the listing, in particular:

- The lot was described as 125 x 400 feet, it actually was 84 acres.
- The heat was described as gas, forced air; it actually was electric.
- It was indicated there was a pool, there was no pool.
- The water supplied was described as municipal; there was in fact a drilled well.
- It was indicated there were sewers; in fact there was a septic system.
- It was indicated that there were 10 parking spaces, there were 4.
- The room dimensions were grossly exaggerated – the family room for example was listed at 39.37 x 27.07 feet, the actual measurements were 14.60 x 20.01. None of the room dimensions appeared accurate.
- The property was described as 'completely renovated'; it was in fact in its original state, just well maintained.
- The number of rooms are stated as 12 + 4, where as the actual listing agent has indicated 10 + 2.

The Applicant initially indicated that he took the lot measurements from a survey he was provided, he acknowledged, however, that there is no survey in existence for Property 9. He explained that the room dimensions had been affected by the system converting them from feet to meters and that is why they were so off however it does not appear to the Tribunal that there is any mathematical conversion that would explain the dimensions.

Guy Richards the salesperson who had the listing for this property at the time confirmed that there were street signs, and the number of this property was in front of the house.

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<sup>26</sup> Exhibit 7 tab 5B and Exhibit 18 tab K

Mr. Richards also happened to be the salesperson previously involved in the sale of Property 9 to the Vendor, who the Applicant was acting on behalf of and who he claims he was deceived by. Property 9 previously sold in 2003 and in Mr. Richard's opinion the sale price of \$245,000 at that time reflected the fair market value. According to Mr. Richards Property 9 needed a "ton of work" and in his opinion the sale price of \$499,000 was no where near the fair market price.

The Applicant testified that he went to what he thought was Property 9 twice. The first time he met the Vendor's son (Mr. A) at a place on the highway and Mr. A drove him to the property. There he met with the Vendor and the listing agreement was signed. The second time he met the Buyers at the property, they were waiting there with Mr. A. He recalled showing the property to them; it took 5 to 10 minutes. He was advised by the potential Buyers that they had seen the house before and that they knew Mr. A.

Consumer B was one of two purchasers of Property 9, which is a rural farm. He testified with the assistance of an interpreter. Consumer B indicated that he had never seen the Applicant before these proceedings. He had attended Property 9 with two acquaintances, a Mr. A, the son of the owner of Property 9 and Mr. B who was living on the Property at the time. Consumer B and Mr. B were considering buying the farm. Consumer B was told by these individuals that he would not have to put any money down and Mr. A indicated that if he was allowed to stay on the farm he would pay rent of \$1,000 per month and he would help him buy animals and then sell them.

Consumer B viewed the property three times. He signed an offer to purchase, along with the wife of Mr. B, at the home of Mr. A. The witness signature for the purchasers however, appears to be that of the Applicant.

Consumer B identified the Agreement of Purchase and Sale signed by him.<sup>27</sup> This is the agreement that was provided to the mortgage lender as well as the agreement that was in the trade file at Homeward Realty, however the copy in the Homeward Realty file appears to be incomplete in that it is missing the signature page. As indicated above, the signature page indicates that the Applicant signed as witness to both Consumer B and the co-purchaser. The Applicant has testified that the Buyers signed in his presence but he believes now that they were individuals posing as Consumer B and potentially the co-purchaser although he was not clear about the latter as he could not recognize her from the photo ID on file with the bank. The Applicant did not have an explanation to reconcile the fact he had never met Consumer B yet his signature appeared as witness. Consumer B testified that he did not see the listing for Property 9 with a picture until a year after the transaction was completed.

According to Consumer B after signing the agreement he and the co-purchaser were taken to the Scotiabank to arrange a mortgage by Mr. A and B. He signed what he was told to sign. Consumer B was shown the various documents provided in support of the mortgage loan: Royal Bank Account statements indicating a chequing account balance of approximately \$50,000.00 and Revenue Canada Notices of Assessment for 2004 and

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<sup>27</sup> Exhibit 7 Tab 5E

2005 for Consumer B indicating a taxable income of over \$130,000. Consumer B indicated that these were fabricated.<sup>28</sup> Consumer B confirmed that the chequing account number on the false statements was his account number. He testified he had provided a blank cheque to Mr. A. The date of the bank statements are dated June 12, 2006, and set out alleged transactions between March 1 and June 9, 2006. Both Excel screen shots and final copies of these exact account statements were included in the documents found on the Tagari Team hard drive(s) examined by RECO investigators.<sup>29</sup>

The Applicant testified he did not recall e-mailing documents to the mortgage broker. He stated he would e-mail documents when a client asked him too. He denied sending the MLS listing for Property 9 which had a picture of the wrong property. He indicated he did not recall seeing the Royal Bank account statements or the mortgage approval documents. The Vendor engaged Mr. W to act as her solicitor in the sale. The Applicant testified that Mr. A previously knew Mr. W and that is how he came to be the Vendor's solicitor. The Applicant denied knowing anything about "Blue Chip Services Inc." which received over \$53,000 of the proceeds of the sale of the property.

When asked how he came up with the asking price of \$519,000 for Property 9, the Applicant indicated that the owner had indicated that he needed at least \$500,000 for the farm. The Applicant did not check the prices of other farms. The decision was to put that price in the listing and see what happened. The Applicant stated he knew nothing about the 'country', that it was the first time out of his area.

The Applicant has denied inserting a false picture into the listing of Property 9. The copy of the listing of Property 9 in the trade file of the Applicant's brokerage at the time indicates "Photo Not Available". At the top of this listing it indicates that it was prepared by Pervez Tagari Broker and then indicates the date and time as June 4, 2006 at 8:30:30 am. The Tribunal understands 'prepared' simply means that it was pulled up at that time using the identified individual's user name and password. The copy of the listing which found its way into the hands of the mortgagee included a picture of the property that the Applicant testified he was taken to, but was not Property 9. This listing indicates that it was prepared by Pervez Tagari, June 4, 2006, 8:28:50 am.

As proof that he had nothing to do with the inserting or editing of a picture in the listing of Property 9, the Applicant requested, and was granted, permission to submit into evidence on day nine of these proceedings a document entitled 'Historical Information' for the Property 9 listing. This was allegedly obtained by the Applicant on April 13, 2011 at 8:10:09 pm. According to this history, there was only one noted transaction, an edit, which took place June 13, 2006 and involved changing the property status to sold.<sup>30</sup>

On day ten of these proceedings, the Respondent requested, and was permitted, to submit into evidence a document entitled 'Historical Information' for the Property 9 listing. This document was generated April 14, 2011 at 9:08:47 pm. This history

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<sup>28</sup> Exhibit 7 Tab 5 I

<sup>29</sup> Exhibit 10, tab 12 B

<sup>30</sup> Exhibit 24

indicated that there had been three transactions. The matter was adjourned to provide for the filing of an expert's report on the integrity of the TREB information system.

Mr. Roy Murata is currently the Manager of Data Services and Senior Business Analyst with the TREB. He has been employed by TREB for twenty years. His expertise on the TREB system was not challenged. His evidence was that the listing history cannot be changed by anyone including TREB.<sup>31</sup> He compared the two versions of the Historical Information obtained and concluded that the version produced by the Applicant did not come from the TREB system as the number of transactions should not be different. He testified that he has never known the system not to show the full history and it doesn't matter where you are, every user is going to see the same history. Mr. Murata interpreted the three transactions found in the complete history and they included the addition of a photo as transaction 1, the deletion of a photo as transaction 2 and the word 'sold' added as transaction 3. A copy of the photo inserted into the listing of Property 9 was found on a hard drive taken from the Tagari Team brokerage.<sup>32</sup>

### Conclusion

The Applicant does not deny that the listing he posted for Property 9 contains numerous errors but he claims that there were all simply mistakes. In the Tribunal's opinion, the listing is so inaccurate that it could not be used to identify the property that the Applicant alleges was the property he based it on, with the exception of the photo. The listing he created provides no hint that the property being listed is in fact a rural property, with a septic system and well. It may be that the Applicant is not familiar with these things, but he should know whether there was a pool or not. It seems incredible to the Tribunal that a competent Broker could ever produce a listing which was so inaccurate. The Tribunal concludes the MLS listing created by the Applicant was not the result of a series of mistakes but was simply fabricated to provide an enhanced description of Property 9, to justify an inflated price and mislead a mortgagee as to the nature and value of the property. This was not honest.

The Applicant alleges that he was duped, that he was taken to a property by individuals who mislead him regarding their ownership and he didn't know where he was because they drove him there and it was at dusk. However, he also testified that he attended the property twice and the second time he met the Buyers there. There was no suggestion that he was taken there the second time by anyone. It seems too incredible to believe that he would end up at the wrong address on his own when he apparently was not familiar with the area.

With respect to the mortgage arranged for Consumer B, both Excel screen shots and final copies of the false account statements provided to the mortgagee with respect to Property 9 were found on one of the Tagari Team hard drives examined. There was a general suggestion that documents may have been planted on the hard drive to implicate the Applicant. To do so in the case of Property 9 it would have to be someone

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<sup>31</sup> Exhibit 30

<sup>32</sup> Exhibit 10 tab 12

with access to both the false documents provided to the Bank in 2006 and the Applicant's computer system and there was no hint as to who that might possibly have been. There was no suggestion that the Applicant's spouse was involved in anyway with the trade of this property. The Tribunal finds it is more likely than not that the Applicant produced and/or provided those documents to the mortgagee of Property 9.

Finally, based on the evidence of Mr. Murata that a listing history cannot be changed, the Tribunal finds that it is more likely than not that the historical information submitted by the Applicant during these proceedings was altered by him. Clearly the Applicant's conduct with respect to Property 9, including producing and providing a false document to the Tribunal during these proceedings, was dishonest.

### **Good Character Evidence**

Mr. Billi Periku is the Broker of Record for Coldwell Banker Properties Ltd. Realty. The Applicant has worked for this brokerage since approximately July of 2008. Mr. Periku worked with the Applicant at Royal LePage Homeward when Mr. Periku was first registered and joined the Tagari Team in May of 2007. The Applicant provided training for the witness and instructed him on the best way of 'farming' and on the importance of having paperwork signed before starting work. The witness never heard any complaints about the Applicant. He indicated if the Applicant was knowingly involved in questionable transactions he would not work with him. He confirmed he would be willing to supervise the Applicant.

The Applicant submitted three letters of support, two from political representatives of his work area and one from a leader of his faith community. All three acknowledged his assistance to the community.

### **False Statement in Applications for Registration**

The Applicant submitted an Application for Renewal as a broker under the Act on or about March 25, 2003. In this application he answered "yes" to questions 2, 3, 4, 5, 6 and 7. This application was received by RECO on March 25, 2003.<sup>33</sup> On Wednesday April 9, 2003, a fax was sent to the Applicant by Maritsa Pabon, Registration Clerk. It stated "As per our conversation this morning please amend Section B of the application for renewal. If you have any questions do not hesitate to contact me".<sup>34</sup>

Ms. Pabon testified that seeing all questions answered 'yes' would have raised a red flag and she would have contacted the Applicant as the assumption would have been that the questions were all answered yes by mistake. The questions dealt with things that would be of concern to the Registrar such as whether an applicant was involved in any other business, bankruptcy, outstanding judgements, licensing suspension or revocation, or pending charges. It would be unlikely that a registrant would be answering yes to all. Ms. Pabon testified that such an application would be approved if

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<sup>33</sup> Exhibit 3 tab 3a

<sup>34</sup> Exhibit 3 tab 3a pg 6

RECO was sent an amended copy. On April 10, 2003, RECO received an amended application with questions 2 through 7 answered 'No'.

It was Ms. Pabon's evidence that if she had been told by the Applicant of his bankruptcy she would have advised that he should include documentation and that he would always have to answer yes on each renewal application. The form itself states just above question 2 *"Please review the Completion Instructions on Page 3 before answering YES or NO for the following questions. If you answer yes to any question and have not previously disclosed in writing, you must do so now. Refer to Completion Instructions."* It was the Applicant's evidence that he was told to change his answers so he did. He also testified that the Trustee in Bankruptcy had advised him he would have to fax the bankruptcy documents to the Regulator, so he did. He is not sure when he faxed it to RECO.

On the Application for Renewal received by RECO in May, 2005 the Applicant answered 'NO' to questions 2 to 7. On the Application for Renewal received by RECO on May 1, 2007 the Applicant again answered 'NO' to questions 2 to 7. On the Application for Renewal received by RECO on May 12, 2009, the applicant answered YES to questions 2, 4 and 7. These relate to whether: he would be employed in another business, had been involved in personal bankruptcy and whether there were charges pending or convictions, respectively. The Applicant provided details of two companies GT Property Management Inc. and Fixit Renovation Inc. in his 2009 renewal. He described himself as the manager of both companies. With respect to personal bankruptcy, he indicated that he went bankrupt in 2001 and that RECO had a record of this on file. Lastly, he indicated that there is a 'domestic charge' and one related to property.

Mr. Hunt did a corporate search for Greater Toronto ('GT') Property Management Inc. and determined that it was incorporated in March 13, 2007 and that the Applicant was an officer and director since incorporation.<sup>35</sup>

With respect to the Applicant's bankruptcy, the Applicant made an assignment into bankruptcy on February 12, 2001, less than 12 months after he sold Property 1 to Relative A. On the "Information Relating to the Affairs of the Bankrupt" form signed by the Applicant, he indicated Property 1 as his residential address, however, no particulars were set out of his having sold this property within 12 months of his assignment.<sup>36</sup> The Applicant testified that he told the Trustee about the sale of this property and trusted that the Trustee would fill out the form properly.

### Conclusion

The Tribunal does not accept the Applicant's evidence that he had intended to answer 'yes' to all the questions on his 2003 application for renewal and that he was told to change them. There was never any reason for the Applicant to have answered yes to

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<sup>35</sup> Exhibit 3 Tab E

<sup>36</sup> Exhibit 15 tab 4d



all the questions, this simply does not make sense. The Tribunal accepts the evidence of Ms. Pabon that if the Applicant had indicated he had been bankrupt that he would have been advised to continue to indicate 'yes' on the form as that is what registrants had to do. This makes sense. The Tribunal finds that the Applicant failed to indicate he had been bankrupt on his 2004, 2005, and 2007 forms and failed to disclose his other businesses on his 2007 renewal.

## LAW

The Act states, in part:

10. (1) An applicant that meets the prescribed requirements is entitled to registration or renewal of registration by the registrar unless,
  - (a) The applicant is not a corporation and,
    - (i) having regard to the applicant's financial position or the financial position of an interested person in respect of the applicant, the applicant cannot reasonably be expected to be financially responsible in the conduct of business,
    - (ii) the past conduct of the applicant or of an interested person in respect of the applicant affords reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty, or
    - (iii) The applicant or an employee or agent of the applicant makes a false statement or provides a false statement in an application for registration or for renewal of registration;

## SUMMARY OF CONCLUSIONS

The issue the Tribunal must determine is whether the Applicant's conduct affords reasonable grounds for the belief that he will not carry on business in accordance with the law and with honesty and integrity.

The Tribunal has found that the Applicant knowingly created a misleading MLS listing in order to facilitate a trade of Property 2 at an inflated price. He also created listings with false descriptions and played a role in obtaining mortgage financing with false documents with respect to Properties 3 and 4. With respect to Properties 6 and 7, the Tribunal has found that the Applicant forged signatures on the Purchase and Sale Agreements for the two properties, on all the mortgage documentation for Property 6 starting in 2004, and on a cheque made payable to his spouse from the proceeds of the sale of Property 6. With respect to Property 9, the Applicant created a completely false MLS listing and bank statements, and he created and submitted a false document to the Tribunal during these proceedings.

Finally, the Tribunal has found that the Applicant did not disclose his bankruptcy on three renewal forms as he was required to do, nor did he advise of his engagement in other businesses in 2007. Given all the findings with respect to the above properties the Tribunal does not need to address whether the failure to disclose would be sufficient on its own to justify revocation.

The Tribunal finds that the evidence of the Applicant's dishonest conduct is substantial and concludes he is disentitled to registration as this conduct affords reasonable grounds to believe that he will not carry on business in accordance with the law and with honesty and integrity. The suggestion throughout has been that the Applicant did not do anything wrong but was either careless, exercised poor judgment or was duped. The facts simply do not support this. There was a pattern to the Applicant's behaviour, including: making false and misleading statements as to renovations and other features in listings, setting inflated prices, assisting purchasers in obtaining mortgage financing using false documents, and at times forging signatures. These were intentional acts for improper purposes and cannot be explained by carelessness, inexperience, or poor judgement.

Notwithstanding that there were no submissions made that registration subject to conditions should be considered, the Tribunal has considered this and has concluded there are no conditions which could be put into place which would adequately protect the public given the serious and repeated dishonest conduct of the Applicant.

## ORDER

For the reasons cited above, the Tribunal, acting pursuant to subsection 14(5) of the Act, hereby directs the Registrar to carry out his Proposal dated March 12, 2010 to revoke the registration of Perez Tagari as a Broker under the Act.

LICENCE APPEAL TRIBUNAL

  
Elizabeth L. Sproule, Vice-chair

*Released: July 25, 2011*

The hearing was recorded. Transcripts can be made available at your expense. The period to appeal a decision to the Ontario Superior Court of Justice or Divisional Court (<http://www.ontariocourts.on.ca/>) is 30 calendar days from the date of release of the decision. Please arrange to pick up your Exhibits within 30 days after that period has passed. The Tribunal requires seven days notice prior to releasing Exhibits.

This decision, which is being released to the parties in this proceeding, may also be posted on the Licence Appeal Tribunal's website <http://www.lat.gov.on.ca/> within three weeks time. The decision may also be available on Quicklaw at a later date.

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