



IN THE MATTER OF THE REAL ESTATE ACT

R.S. B.C. 1996 c.397

- AND -

IN THE MATTER OF RONALD PATRICK THOMSON

SUSPENSION ORDER UNDER SECTION 31(10)

AM ADVISED and of the opinion that:

1. The Superintendent of Real Estate (the "Superintendent") is conducting an investigation into the activities of Ronald Patrick Thomson, ("Thomson") a licensed agent under the Real Estate Act, (the "Act") who is currently employed as the nominee of Century 21 Icarus Realty Ltd. ("Icarus Realty"), in Nanaimo, British Columbia.

2. Section 4(3) of the Act states:

"If the applicant for an agent's licence is a corporation, the application must include a nomination in writing and under the seal of the corporation, of a nominee or nominees to represent the corporation."

3. The records of the Superintendent show that Thomson is the nominee of Icarus Realty.

4. Section 6.01 of the Regulations under the Act states:

"No agent shall operate a branch office unless the location and the nominee thereof are approved by the Superintendent, and unless he is the holder of a valid and subsisting licence for such branch office issued to him by the Superintendent."

5. Section 9.16 of the Regulations under the Act states:

"Every agent shall have an agent or nominee,

Ministry of Finance

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• Superintendent of Real Estate
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(a) in regular attendance at its principal office and at each of its branch offices, and

(b) in active charge of the business of the agent there conducted.”

6. In January, 2002, the Real Estate Council (the “Council”) distributed a report titled, “The Responsibilities of a Nominee Under the Real Estate Act”. The report clearly specifies the activities that a nominee is responsible for at an agent’s office. Amongst other things it states:

- The nominee must ensure there is an adequate level of supervision for all licensees, regardless of licence category;
- The nominee is there to provide a “second look” at the work of all licensees in the office, and is a “built-in” information and advice resource for licensees and members of the public;
- A nominee’s responsibilities apply to all activities of the corporate agent that require licensing under the Act. In this regard, the nominee must be in active charge of the business of the agent and be in regular attendance at the office;
- The nominee must ensure that the agent maintains proper books and records;
- The nominee must ensure a proper paper trail with every transaction;

The nominee must ensure proper property management files are maintained;

- On a monthly basis the nominee must review and initial the reconciliation report of each trust account maintained by the agent;

On a monthly basis the nominee must ensure the agents records for the monthly trust liability reconciliation are maintained;

- The nominee must ensure the proper accounting of trust bank accounts, cancelled cheques, and deposit books, and that they are properly designated as “trust”;
- The nominee must ensure there is a trust journal and ledger for each trust account;
- The nominee must ensure all accounting records are kept up-to-date; and

The nominee should be a required signatory on all trust account cheques.

7. Therefore, the activities of a nominee within the office of a licensed agent carry the considerable weight of responsibility to ensure the proper conduct of the agency with respect to its agent's licensees, and the public.
8. Section 4.01 of the Regulations under the Act states:

“Every person who applies for a licence under the Act, and if a partnership or corporation, each nominee thereof shall,

 - (c) be of good reputation
9. The Licensee Practice Manual, prepared by the Real Estate Council and given to every licensee in the province, clearly describes the type of conduct that will result in the suspension of a licensee. It specifically identifies, “possession of narcotics for the purpose of trafficking” as an example of an indictable offence which would result in non-consideration of a license application until at least one year following completion of a sentence, parole, and/or probation.
10. Rick Senum, a member of the Investigation Department of the Office of the Superintendent, has reported to me that Thomson has recently been convicted of three counts relating to the importation and possession of a controlled substance. In particular:
 - (a) On February 3, 1999, the Royal Canadian Mounted Police charged Thomson and eight co-accused with six counts relating to conspiracy to import, traffic in, and possession of 12 tons of cannabis resin, as follows:

Count 1

Between February 1, 1997, and November 5, 1998, Thomson and others conspired, contrary to Section 465(1)(c) of the Criminal Code of Canada, to import 12 tons of cannabis resin into Canada, contrary to Section 6(3)(a) of the Controlled Drugs and Substances Act.

Count 2

Between February 1, 1997, and November 5, 1998, Thomson and others conspired, contrary to Section 465(1)(c) of the Criminal Code of Canada, to traffic in 12 tons of cannabis resin, contrary to Section 5(3)(a) of the Controlled Drugs and Substances Act.

Count 3

Between October 5, 1998, and November 5, 1998, Thomson imported 12 tons of cannabis resin into Canada, contrary to Section 6(3)(a) of the Controlled Drugs and Substances Act.

Count 4

Between September 14, 1998, and November 5, 1998, Thomson possessed 12 tons of cannabis resin for the purpose of trafficking, contrary to Section 5(2) of the Controlled Drugs and Substances Act.

Count 5

Between September 1, 1998, and November 5, 1998, Thomson and others conspired, contrary to Section 465(1)(c) of the Criminal Code of Canada, to import 12 tons of cannabis resin into Canada, contrary to Section 6(3)(a) of the Controlled Drugs and Substances Act.

Count 6

Between September 1, 1998, and November 5, 1998, Thomson and others conspired, contrary to Section 465(1)(a) of the Criminal Code of Canada, to traffic in 12 tons of cannabis resin, contrary to Section 5(3)(a) of the Controlled Drugs and Substances Act.

- (b) Thomson entered a plea of not guilty to the charges, and between February, 1999, and April 13, 2004, attended Vancouver Provincial Court for a number of court and trial appearances.
 - (c) On April 13, 2004, The Honourable Judge Elizabeth Arnold found Thomson guilty on counts one, two, three, and four, acquitted him of counts five and six, then entered a judicial stay of proceedings on count two.
- 11 In the written decision of Judge Arnold dated April 13, 2004, she states:
- (a) At paragraph 321:

“Based on all the evidence relating to Ronald Thomson, viewed in the context of all admissible evidence at trial, the only conclusion I can properly reach is that he was a party to the agreement to import and traffic the cannabis resin brought into Canada on the ‘Ansare II’ at Fanny Bay. I

find him to be an off-load conspirator in terms of his proven links with Fitznar, Guilbride, and Kenneth Thomson. He had a clear role to assist with the actual importation at Fanny Bay, by performing a scouting and reconnaissance function in the early morning hours of November 4, 1998. He was also very involved in setting up the warehouse to receive, pack and ship the shipment of cannabis resin. The reference to radios and batteries in Exhibit 50 indicate that he also performed a function in terms of the operability of communications equipment. While he played a less active role than either Fitznar or Guilbride and a different role than Kenneth Thomson, he was clearly linked to the import side by virtue of his repeated contacts with Fitznar, who in turn was in touch with Goyer, who was proven to have been definitely linked to the 'Blue Dawn' and its meeting with the 'Ansare II'. Therefore, I find Ronald Thomson to be a party to the conspiracy alleged in Counts 1 and 2, beyond a reasonable doubt, and I enter a Conditional Judicial Stay in relation to Count 2 only."

(b) At paragraph 322

"I now turn to consider whether or not Ronald Thomson was a party to the importation of cannabis resin from the 'Ansare II' (Count 3). Given that I have found the offence of importing to include the unloading of the 'Ansare II' at the dock at Fanny Bay, there is no doubt on the evidence that Ronald Thomson was a party to the offence by virtue of his presence in the grey van with Fitznar, in the vicinity of the dock, at a time when it was anticipated that the unloading would have been completed, and no communications from those on the dock had been received. His role like that of Fitznar, was to act as a sophisticated form of scout or reconnaissance person to watch out for the police and coordinate the movement of 9.6 metric tons of cannabis resin. I find that Ronald Thomson, beyond any reasonable doubt aided and abetted the importation by virtue of Section 21(1) of the Code. I reject, categorically, that having been proven to be part of the large conspiracy to import and traffic in the cannabis resin, he would not have known that it was coming into Canada from outside the country at Fanny Bay, as opposed to for example from Prince Rupert or Bella Coola. Although Fitznar may have restricted the information he passed on to those on the off-load side of the operation, it was in all likelihood explicit and most certainly implicit, in the various meetings and in making preparations, that the cannabis resin was coming into the country by sea from outside the country. If the cannabis resin was already in the country, common sense dictates that those with control would not engage in further transport to an island on the edge of the country, and in the high risk operation of unloading it in a relatively populated area, on a government dock, with a public highway going right by. For these reasons, I convict Ronald Thomson of Count 3."

(c) At paragraph 323

“Ronald Thomson is also charged as a party to the possession for the purpose of trafficking in relation to the same shipment of cannabis resin (Count 4). I rely on my prior review of the law in relation to possession and ‘constructive possession’ as a basis for my findings regarding Ronald Thomson. As previously stated, the Crown has clearly proven all essential elements of this offence, other than possession, beyond a reasonable doubt. The only issue is whether or not Ronald Thomson may be said to have been in constructive possession of the cannabis resin, by virtue of his proven role, at the time others had it in their actual possession at Fanny Bay. As with Fitznar, I find it proven, beyond a reasonable doubt, while the cannabis resin was being unloaded by others at the dock, Ronald Thomson knew of the operation, consented to the possession by others, and by virtue of his role as scout and communications coordinator in the grey van, exercised a meaningful element of control over the drugs. His activities in the days leading up to November 4, 1998, and in the early morning hours of that day, lead irresistibly to only that conclusion. Therefore, I find that he was in ‘constructive possession’ of the cannabis resin seized at Fanny Bay, by virtue of Section 4(3)(b) of the Code, which includes a meaningful element of control, I find him guilty of Count 4.”

11. The next appearance date for Thomson and other co-conspirators is April 27, 2004. However, the parties have not yet agreed on a sentencing date.
12. The criminal conviction of a nominee in relation to a large and significant drug conspiracy is inconsistent with the requirements of Section 4.01(c) of the Real Estate Act regulations that a nominee shall be of good reputation.
13. The Superintendent has reviewed the binder of documents provided by Investigator Senum in support of this order.

NOW THEREFORE the Superintendent is of the opinion that the licensee is not a suitable person to be licensed, and the licence should be suspended.

TAKE NOTICE THAT the Superintendent is also of the opinion that it is in the public interest to make an order under Section 31(10) of the Act suspending the licence of licensee and nominee Ronald Patrick Thomson. The license of Ronald Patrick Thomson is hereby suspended.

AND ALSO TAKE NOTICE THAT the Superintendent considers that the length of time that would be required to hold a hearing would be prejudicial to the public interest, so Robert Patrick Thomson’s license is suspended without giving him the opportunity to be heard pursuant to Section 31(12)(a) of the Act.

TAKE NOTICE that Ronald Patrick Thomson, under Section 79 of the Act, may appeal this Order of Suspension to the Commercial Appeals Commission.

Dated at the
City of Vancouver,
Province of British Columbia
this 28th day of April, 2004.



W. Alan Clark
Superintendent of Real Estate
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