



**IN THE MATTER OF THE REAL ESTATE ACT
R.S.B.C. 1996, C. 397**

- AND -

IN THE MATTER OF WERNER GIOVANNI GONZALEZ

CANCELLATION 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 Werner Giovanni Gonzalez, ("Gonzalez") a licensed real estate salesperson under the *Real Estate Act* (the "Act") who is currently employed with Amex – Fraseridge Realty Ltd. in Vancouver, British Columbia and formerly employed with Coldwell Banker, Tri-Tel Realty, Maple Ridge, British Columbia.
2. Section 3(1) of the Act states:

"A person must not act or hold himself, herself, or itself out as an agent without being the holder of a valid and subsisting agent's licence issued to the person under this Act by the superintendent."

Section 3(2) of the Act states:

"A person must not act or hold himself, herself, or itself out as a salesperson without being the holder of a valid and subsisting salesperson's licence or agent's licence issued to the person under this Act by the superintendent, and without being employed by an agent."
3. The records of the Superintendent show that Gonzalez is a licensed salesperson at Amex – Fraseridge Realty Ltd.

4. In August, 2002, the Real Estate Council (the “Council”) distributed a report titled, “The Responsibilities of Individual Licensees”. The report clearly specifies that, “In order to fulfil your responsibilities under the *Real Estate Act*, you must ensure that you:... Familiarize yourself with your company’s Procedures Manual and conduct your business in accordance with the requirements of the *Real Estate Act* and its regulations”.

5. The Real Estate Salespersons and Submortgage Brokers Pre-Licensing Course Manual (1998) refers to the Code of Ethics of the Canadian Real Estate Association on page 9.4, which states that:

- “The Code of Ethics requires members to continue to strive to improve the moral standards of their calling. The Code refers to its members as ‘the real estate fraternity’ who, as part of this fraternity, must ‘... protect the interests of clients’ and safeguard ‘the rights of consumers of real estate services.’”

“The Code of Ethics is quite similar in some respects to a notary’s pledge or a lawyer’s oath, in that it stresses the role and place of the member in the community. While recognizing that a real estate professional is a member of an association of professionals to which certain duties are owed, the Code stresses that a member’s highest duty is owed to the general public. This duty takes precedence over the interests of an individual client: ‘no inducement of profit and no instructions from clients can ever justify departure from the ideals of fair dealing and high integrity.’ “Members are also charged with the responsibility of protecting the general public against fraud, misrepresentation and unethical dealings. It is easy to foresee that this responsibility to the community may on occasion conflict with instructions received by a broker from a client. The Code clearly resolves such a conflict in favour of the interests of the public, who rely on real estate brokers to display a high degree of moral integrity commensurate with their professional standing.”

6. The Code of Ethics at page 9.5 of the Manual lists, among other things, the following standards:

- “The Member therefore must be zealous to maintain, and continually strive to improve, the professional standards of his or her calling:

By endeavouring to protect the public against fraud, misrepresentation or unethical practice in connection with real estate transactions,

- ii. By seeking no unfair advantage over, nor injuring directly or indirectly the reputation of, nor publicly disparaging the business practice of other Members,
 - In the interpretation of his or her obligations, the member can take no safer guide than that which has been embodied in the Golden Rule – ‘Do unto others as you would have them do unto you’.
 - No inducement of profit and no instructions from clients or customers can ever justify departure from the ideals of fair dealing and high integrity resulting from adherence to a lofty standard of moral conduct in business relations.
 - Accepting this standard as the Member’s own, every Member pledges to observe the spirit of the Code in all dealings, and to conduct business in accordance with the standards of business practice as adopted by the Canadian Real Estate Association.”
7. The role of the licensee is critical to the sound and lawful functioning of the real estate industry, as well as the public’s confidence in it.
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 provided by the Council, (2003 edition) at page 255 states under the guidelines for “good reputation” that:

“General business and personal reputation in addition to criminal convictions and charges will be reviewed when considering an applicant’s good reputation.”
10. Rick Senum, an Investigator with the Office of the Superintendent, has reported to me that based on information provided to him by the RCMP, which he believes to be true, that Gonzalez is a “full patch” member of the Haney Chapter of the Hell’s Angels Motorcycle Club. (A full patch member is a member who wears all the insignia that would identify that person as a full member of a particular chapter of the Hell’s Angels Motorcycle Club).

- 11 On September 11, 2004, the "Vancouver Sun" newspaper ran the second of six in-depth articles on organized crime in British Columbia. The articles was titled, "B.C.'s Hell's Angels" and it identified Gonzalez as a full patch member of the Haney Chapter of the Hell's Angels, and that he was a realtor with Coldwell Banker Tri-Tel Realty in Maple Ridge, British Columbia.
12. In 1997 and 2000, the Parliament of Canada enacted Sections 467.1, 467.12, 467.13, and 467.14 of the Criminal Code, which made it an offence for a person to commit an indictable offence for the benefit of, at the direction of, or in association with, a criminal organization.
13. Section 2 of the Criminal Code defines a criminal organization as follows:
 - "means a group, association or other body consisting of five or more persons, whether formally or informally organized,
 - (a) having as one of its primary activities the commission of an indictable offence under this or any Act of Parliament for which the maximum punishment is imprisonment for five years or more, and
 - (b) any or all of the members of which engage or have, within the preceding five years, engaged in the commission of a series of such offences."
14. Recent court decisions have declared that the Hell's Angels is a known criminal organization pursuant to these sections of the Criminal Code.

Regina v. Stadnik (2004), Q.J. No. 7163 (Quebec Superior Court). In his decision, Mr. Justice Zigman states at paragraph 194:

"The parties admitted that the Hell's Angels Motor Cycle Club and its affiliates, including the Nomads, Quebec Chapter, and its puppet club the Rockers of Montreal, are criminal organizations as defined by Section 2 of the Criminal Code."

In the Matter of the Execution of a Warrant to Search Angel Acres Recreation and Festival Property (Supreme Court of British Columbia, date: 2004/06/11, docket: 56310-1, registry: Nanaimo). In his decision, Mr. Justice Lander states:

At paragraph 22, "It is a notorious fact that the Hell's Angels are involved in organized crime, and that such crime crosses provincial and national borders, is generally known and accepted, and a fact of which judicial notice may be taken."

- ii. At paragraph 27, "In addition, judicial notice may be taken of the inter-provincial nature of organized crime and the involvement of the Hell's Angels in such activities."
15. Being a member of a known criminal organization, the Haney Chapter of the Hell's Angels Motorcycle Club, is inconsistent with the requirements of the Act and its Regulations, and specifically inconsistent with the requirement that a licensee be of good reputation.
16. The Superintendent has reviewed the binder of documents provided by Investigator Senum in support of this Order.

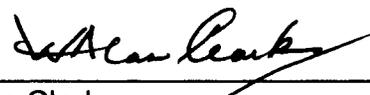
NOW THEREFORE the Superintendent is of the opinion that the licensee is not a suitable person to be licensed and the licence should be cancelled.

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 cancelling the licence of the licensee, Werner Giovanni Gonzalez. THE LICENCE OF WERNER GIOVANNI GONZALEZ IS HEREBY CANCELLED.

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 Werner Giovanni Gonzalez' licence is cancelled without giving him the opportunity to be heard pursuant to Section 31(12)(a) of the Act.

TAKE NOTICE THAT Werner Giovanni Gonzalez may, under Section 79 of the Act and Section 242.2(1) of the *Commercial Appeals Commission Repeal Act* SBC 2003 C. 51, appeal this Order of Cancellation to the Financial Services Tribunal within 30 days.

Dated at the
City of Vancouver,
Province of British Columbia
this 26th day of November, 2004.



W. Alan Clark
Superintendent of Real Estate
Province of British Columbia

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