

**IN THE MATTER OF THE REAL ESTATE ACT
R.S.B.C. 1996, C397, as amended**

- AND -

IN THE MATTER OF RONALD PATRICK THOMSON

- HEARING -

Before: W. Alan Clark
Superintendent of Real Estate

Dates: June 15th, 2005.

Place: Surrey, British Columbia

Appearing: Richard Fernyhough for the Staff of the
Superintendent of Real Estate

Ronald Thomson for himself.

INTRODUCTION

Real Estate License History

Ronald Patrick Thomson ("Thomson") was originally licensed as a real estate salesperson in January of 1993. He was a nominee from February of 1998 to February 26th, 1999. As of that date he became an agent 9.15 until September 3rd, 2000, when he again became a nominee until April 28th, 2004, when his license was suspended.

Particulars of Criminal Conviction

On February 3rd, 1999, Thomson (along with nine other individuals) was charged with a number of criminal code and controlled drug and substance offences in relation to the importation of twelve tons of cannabis resin into Canada.

On April 13th, 2004, The Honourable Judge E.A. Arnold found Thomson guilty of:

- Conspiring to import twelve tons of cannabis resin into Canada;
- Conspiring to traffic in twelve tons of cannabis resin;
- Importing twelve tons of cannabis resin into Canada; and
- Possessing twelve tons of cannabis resin.

Subsequent press coverage of the conviction stated that this was the biggest hash bust in British Columbia history worth an estimated \$100 million dollars.

On May 25th, 2004, Thomson was sentenced to four years imprisonment. Two days later he filed a notice of appeal. The crown has also appealed seeking to have Thomson's sentence increased.

Action of the Superintendent

The matter came to the attention of the Superintendent of Real Estate ("the Superintendent") as a result of the press coverage of the convictions. On April 28th, 2004, after reviewing briefing material, the Superintendent suspended the license of Thomson as he felt Thomson was not a suitable person to hold a real estate license.

Appeal to the Financial Service Tribunal

Thomson appealed the suspension to the Financial Services Tribunal ("the Tribunal"). The Tribunal found that the Superintendent reasonably concluded that the reputation and status of licensees generally would be undermined by Thomson's conviction for serious drug-related offences however, the Tribunal found the Superintendent erred when he suspended Thomson's license for an "unspecified period of time" and sent the matter back to the Superintendent with directions. The directions were as follows:

1. *The oral hearing should be convened within one month of this decision and, absent agreement, it should only be adjourned if necessary to ensure a full and fair determination of the outstanding issue.*
2. *The parties may tender documents and may call witnesses to testify under oath or affirmation, subject to cross-examination; however, no evidence may be led to contradict findings of fact made by the Tribunal.*
3. *The Superintendent should:*
 - a) *consider mitigating factors including, without limitation: the period of time since the criminal offences occurred; the length of the suspension Mr. Thomson has served already; and his history and record as a licensee;*
 - b) *be guided by the Tribunal's reasons in considering the public interest, including prior rulings by the Commercial Appeals Commission cited at pages 6 and 13 of the initial decision; and*
 - c) *issue a decision with written reasons no later than two weeks after the hearing.*

The prior rulings to be considered are:

- *Re Clough, (1984) B.C.C.O No. 3 (CAC);*
- *Michael Yardley-and-Real Estate Council of BC, CAC-9316 (Feb 25, 1994); and*
- *Khosla, supra; and British Columbia (Superintendent of Real Estate)-and-Real Estate Council of British Columbia, (2002) B.C.C.O. No.2 (CAC).*

HEARING

The oral hearing took place on June 15th, 2005, in Surrey British Columbia.

Exhibits

Exhibits were filed as follows:

- Exhibit One – The record that was placed before the Superintendent when the order to suspend Mr. Thomson was made.
- Exhibit Two – The Respondent's Book of Authorities including the cases cited above.
- Exhibit Three – Four reference letters from Mr. Thomson.
- Exhibit Four – Two reference letters from Mr. Thomson.
- Exhibit Five - A Law Society of BC Hearing Report – Timothy J. Hordal respondent.

Issue

The only issue in this matter is the appropriate length of Thomson's suspension. The position of Thomson is that the suspension should be lifted because the length of suspension to date is adequate under the circumstances and is consistent with the Real Estate Council Licensee Practice Manual.

The position of the staff of the Superintendent was and is that the suspension ought to be continued and that Thomson not be eligible for licensing under the Real Estate Services Act for a period of five years from the date of the suspension order or a period of five years from the date of completion of sentence, whatever is longer.

Submissions

Counsel for the Superintendent's staff made verbal submissions. The salient points were:

- The Superintendent was directed to the Book of Authorities factors to be considered in each of the cases referred to;
- The requirement that persons to be licensed be of good reputation as stipulated in the Licensee Practice Manual under the heading "Good Reputation – Guidelines";

- The nature of the offence and the seriousness with which the Parliament of Canada views trafficking, where the amount exceeds 3 kilograms;
- The fact that the amount of hashish involved in this matter is at least 637 times greater than 3 kilograms;
- The Tribunal rejected Thomson's argument that society's changing views on marijuana use should be considered a mitigating factor;
- The length of sentence imposed, four years, should be considered an aggravating factor;
- Thomson's age, 39 years old and not a youthful offender but a mature adult when the conspiracy was in its initial stages, should be considered an aggravating factor;
- Thomson's offence was not, it seems, connected to his employment and therefore is not an aggravating factor to consider;
- The offence was premeditated, sophisticated and motivated by greed with the value of the seized hashish exceeding 100 million dollars; and
- The circumstances of the offences Thomson was convicted of would elevate the crimes to the status of "White Collar Crime" under the guidelines of the Licensee Practice Manual.

Mr. Thomson made verbal submissions, the salient points were:

- The conviction was a matter of fact but I should take into consideration his appeal may be successful;
- No reason to believe that consumers are at risk;
- The decision in Yardley should be considered that a license is a right, not a privilege;
- A Law Society of BC hearing (Exhibit 5) pointed out that it is not the role of the hearing panel to punish but to protect the public and ensure confidence in the legal profession;
- That the time of the suspension is sufficient under the circumstances and should be lifted, and that the Tribunal agreed that the appropriate period of suspension is one year;

- Although he agreed the Licensee Practice Manual are guidelines and can be adjusted, he felt the guidelines should apply to this matter and given he has been suspended for over a year, he should be reinstated;
- The reality of his involvement was only on Vancouver Island and there was no international connection to him personally;
- The date of the offence was seven years ago and there has been no reoccurrence; and
- The public interest to be considered is consumer protection and there is no evidence he has harmed a consumer.

Thomson was asked if he had considered the repercussions when he entered into the conspiracy, such as loss of his liberty and the effect it would have on his real estate license. He replied he was not sure, maybe mildly. He was also asked how the conspirators were going to launder the 100 million dollars and he replied that was something he had no involvement with and that he couldn't speak for what other people were going to do.

The Decision

The previous decisions considered

In arriving at my decision I have considered the issues raised in the following cases (as directed by the Tribunal) which are:

- Re Clough, (1984) B.C.C.O No. 3 (CAC);
- Michael Yardley-and-Real Estate Council of BC, CAC-9316 (Feb 25, 1994); and
- Khosla, supra; and British Columbia (Superintendent of Real Estate)-and-Real Estate Council of British Columbia, (2002) B.C.C.O. No.2 (CAC

I have also considered the issues raised in the following cases:

- R. v Branco (B.C.A.A.) Vancouver Registry CA015818;
- B.C. Superintendent of Real Estate v Real Estate Council of B.C. CAC-0106;
- Royal College of Dental Surgeons of Ontario and Shankman, 119 D.L.R. (3d) 289; and

- A Law Society of BC Hearing Report – Timothy J. Hordal respondent.

The decision

Clearly the decision to be made has been appropriately articulated in "Clough" as follows:

- "It is a contest between the appellant (Thomson) on the one hand and the interest of the public generally on the other."

I think it is important at this point to define what the public interest is. In my opinion the factors I need to consider are:

- The public confidence in the province's financial services section and in particular the real estate industry;
- The reputation and status of licensees in the real estate business generally; and
- The protection of consumers.

I have also considered the mitigating factors as directed by the Tribunal which are:

- The period of time since the criminal offences occurred;
- The length of suspension served to date; and
- Mr. Thomson's history and record as a licensee.

I have also considered the mitigating factors contained in the book "Regulation of Professionals in Canada" Ch. 14 by James Casey. In addition to the above Mr. Casey also suggests mitigating factors to be considered are:

- Attitude since the offence was committed;
- The nature and gravity of the proven allegation; and
- The age and inexperience of the offender.

I have also considered the Licensee Practice Manual – "Good Reputation Guidelines".

Observations

Thomson was convicted on four counts relating to the importation of twelve tons of hashish into this country, along with eight other individuals. This was a complex criminal undertaking starting in February of 1997 and finding its way throughout the world until on November 4th, 1999, at 2 am when the R.C.M.P. arrested a number of individuals as they were off-loading bales of cannabis resin. This can only be described as a large organized crime undertaking, motivated by greed and the anticipation of huge profits. A review of the decision in the case finds Thomson's role to be far more significant than he would have us believe.

Thomson's response to the question, did he consider the potential repercussions if arrested when he entered into the conspiracy, is not credible and even less credible when he stated he had no involvement in how the profits were to be legitimized (laundered), and that he could not speak to what other people were going to do. Mr. Thomson appeared, through his answers and body language, to feel no remorse and clearly in my opinion has not rehabilitated himself.

Thomson entered this conspiracy at about 39 years of age with 4 years experience in the real estate industry. Clearly he was not immature and knew full well the consequences (including the loss of his real estate license) of involving himself in a criminal undertaking of this magnitude. I also do not believe it is a coincidence that Mr. Thomson became a nominee in February of 1998 which is during the period the conspiracy was ongoing.

I have considered the mitigating factors as directed by the Tribunal but find they are heavily outweighed by the aggravating factors, which are:

- His clear lack of remorse which indicates he is not rehabilitated;
- The nature and gravity of the offence – a large organized crime undertaken, involving 100 million dollars of drugs, Thomson and his co-conspirators sought to sell to residents of Canada;
- His age and experience – clearly he was a mature individual who knew exactly what he was doing and the risks he was taking, including the loss of his real estate license;
- The erosion of public confidence in the financial services sector that would occur if Thomson was allowed to regain his license without being rehabilitated; and
- The harm and effect on the many thousands of honest, ethical real estate licensees.

I am in agreement with counsel for the Superintendent's staff submission that the crime Thomson stands convicted of can only be described as a white collar crime. However, this crime goes beyond what is contemplated in the License Practice Manual. This crime was a complex organized crime matter which cost a considerable amount of money to commit.

Suspension Imposed

The confidence in the financial services sector and the reputation of the many thousands of honest, ethical real estate licensees can only be preserved by not allowing Thomson to be licensed until he has reestablished his reputation and suitability. In these circumstances, the public interest considerations have to be placed above those of Thomson. As a result, I am imposing a suspension which is consistent with the Licensee Practice Manual as follows:

- Thomson is not eligible for licensing under the Real Estate Services Act until five year after completion of his sentence, or five years from the date of the original suspension, which ever is longer.



[See note Below]

W. Alan Clark - Superintendent of Real Estate

Surrey, British Columbia

June 23, 2005

[Amended: July 20, 2005]

- *To correct typographical error on page #2, last paragraph, changing April, 28, 2005 to read "April 28, 2004"*