

**IN THE MATTER OF THE REAL ESTATE SERVICES ACT**

**- AND -**

**HENDIN PROPERTIES INC. AND HOWARD JOEL HENDIN**

**ORDERS UNDER SECTIONS 51 AND 49, AND**

**NOTICE OF RIGHT OF HEARING OR APPEAL  
UNDER SECTIONS 54(1)(E), 51(3) AND 45(6)**

UPON REVIEWING the submissions and exhibits contained in the Investigative Report prepared by the staff of the Superintendent of Real Estate ("the Staff"), I am of the opinion that:

1. The records of the Ministry of Finance, Corporate and Personal Property Registries for the Province of British Columbia show for Hendin Properties Inc. ("Hendin Properties") that:
  - (a) It was incorporated January 2, 1997, having incorporation #BC0533883.
  - (b) Its registered and records office is located at 2224 East 8<sup>th</sup> Avenue, Vancouver, British Columbia, V5N 1V5.
  - (c) Its sole director and officer is Howard Hendin, #208-1290 West 13<sup>th</sup> Avenue, Vancouver, V6H 1N6.
  - (d) The company was dissolved on March 13, 2006, for Failure to File.
2. The Real Estate Council ("the Council") confirms that, pursuant to section 127 of the Real Estate Services Act ("the Act"), neither Howard Joel Hendin ("Hendin"), or Hendin Properties Inc. are licensed to provide real estate services within the Province of British Columbia.
3. On August 11, 2006, staff of the Financial Institutions Commission ("FICOM") began an investigation of Hendin and Hendin Properties Inc. to determine whether they were conducting unlicensed real estate services, particularly rental property management services, in British Columbia.
4. FICOM received a complaint by way of the Council from [REDACTED], a property owner (the "Owner"), alleging that Hendin had wrongfully taken rent and a

security deposit from the Owner's tenant, [REDACTED] (the "Tenant"), and had not paid this money to the Owner as required. This activity occurred during a time when Hendin held a license to provide rental property management services, but this license was terminated by his brokerage Royal Pro Real Estate Network Inc. ("Royal Pro") on May 29, 2006. Hendin subsequently continued with his rental property management activities with respect to the Owner's property after his license was terminated.

5. The Staff reviewed the detailed written complaint from the Owner and the documents supporting the complaint, including transcripts of telephone conversations between the Council staff and the Tenant.
6. Within the documentation was an email sent from Hendin to Pat, a production assistant aiding the Tenant, confirming that the security deposit should be paid to Royal Pro, and that rent should be paid to the Owner.
7. Larry Ferster, managing broker of Royal Pro, provided a written statement by way of email that he had no knowledge of the Owner's property, nor of the Owner or the Tenant, and that Royal Pro had not received a security deposit for this property.
8. Hendin had provided a copy of a document called "Tenant List with Deposit Location" (the "List"), which was prepared by him. The List purportedly identified all the properties he was managing as of May 17, 2006. The List did not contain details of the Owner's property, or the Tenant, although this tenancy began on April 22, 2006.
9. Hendin's website at [www.howardhendin.com](http://www.howardhendin.com) ("the Website") was reviewed on September 12, 2006. The home page stated the Website was "currently under construction", but a Google search on the same date, and another search on September 15, 2006, provided an alternate link to the Website at [www.howardhendin.com/about\\_us.htm](http://www.howardhendin.com/about_us.htm). The Website provides information on rental properties and property management services offered by Hendin, and includes within its content, among other things, the following:
  - (a) The home page shows Hendin's logo shown as a capital H encased in a rectangular shape, and the statement "Howard Hendin Rental Properties & Property Management". It further states "Our site is currently under construction! Please check back with us soon."
  - (b) From the alternate link to the "About Us" page, a user is able to click on all the links on the Website, including "Rental Properties" and "Property Management". The "About Us" page indicates that Hendin has been "serving the needs of real estate customers for the past 17 years".

- (c) From the "About Us" page, if the user clicks on "Contact Us" the user is directed to call Hendin at (604) 733-2444, or email [howard@howardhendin.com](mailto:howard@howardhendin.com). The user may also complete a web based form.
- (d) From the "About Us" page, if the user clicks on "Property Management" and "List Your Property" the user is directed to a page through which the user can list their property with Hendin.
- (e) From the "About Us" page, if the user clicks on "Property Management", a web page appears which identifies some of the services that Hendin provides including:
  - i. Qualifying and screening prospective tenants;
  - ii. Showing property;
  - iii. Collecting rent;
  - iv. Confirming work and credit references of prospective tenants;
  - v. Placing advertisements on behalf of landlords;
  - vi. Prepare tenancy agreements; and
  - vii. Placing rental property information and pictures on Website.
- (f) From the "About Us" page, the user clicks on "Rental Properties", a page appears that provides a list of locations in which rental properties are available, including both furnished and unfurnished properties. Property locations include:
  - i. Vancouver Downtown
  - ii. Vancouver Westside
  - iii. West Vancouver
  - iv. North Vancouver
  - v. Deep Cove
  - vi. Other areas
  - vii. Unfurnished properties

- (g) If the user clicks on an area, such as "Vancouver Downtown", they are taken to a page indicating the property location, type of property, availability and the property code. The user may then click on a selected property to view details and see photos of each property. The individual rental pages for each area as at September 12, 2006, were compared to copies of printouts of the same web pages as at May 19, 2006. The copies of the web pages dated May 19, 2006, were provided by the Council. When comparing the web pages printed at September 12, 2006, to those printed at May 19, 2006, a number of changes were identified in the content of the web pages, including changes to property availability dates, and the addition of new properties. On this basis, the Website has been updated between May 19, 2006, and September 12, 2006.
  - (h) From the "About Us" page, if the user clicks on "Site Map", the web page identifies all the linked areas available on the Website.
  - (i) From the "Site Map", if the user clicks on "Register With Hendin Properties", the web page displays a form designed to assist renters with finding a property.
  - (j) From the "Site Map" page, if the user clicks on "Management Portfolio", the web page identifies some of the buildings in which Hendin Properties Inc. has rental suites and apartments.
10. On Wednesday, September 12, 2006, an Investigator with the office of the Superintendent attended some properties contained in the List, including an apartment located at [REDACTED] Avenue, Vancouver. The tenant of that property, [REDACTED], an 86 year old man, stated the following:
- (a) Some time in 2002 he and his wife moved into the apartment from White Rock in order to be closer to his wife's doctor;
  - (b) The apartment was found through [REDACTED], an acquaintance of his wife, who had inherited the apartment from her mother;
  - (c) Mr. [REDACTED] wife and [REDACTED] agreed on the rental together;
  - (d) Hendin is the contact person to call if there are any problems with the apartment, and attends to the [REDACTED] home about every three months to pick up the rental cheques; and
  - (e) All rental cheques are made payable to [REDACTED] and he writes three post-dated cheques at a time. He will phone Howard Hendin when the cheques are ready for pick-up. He could not remember the last date Hendin was at the apartment.

11. On September 13 and 14, 2006, another Investigator attended several properties on the List, including the following:

(a) [REDACTED] and spoke to the tenant, [REDACTED], who stated the following:

- i. A one year lease was signed for this property back in June of 2005 (the "Lease");
- ii. The Lease expired at the end June, 2006, at which time he sent three post-dated cheques to cover the rent until the end of September 2006;
- iii. The post-dated cheques were made payable to the homeowner, but were sent to Hendin's business address;
- iv. The security deposit was also made out to the property owner;
- v. For all problems, he would call Hendin;
- vi. His wife was the last to see Hendin, back in mid-May, 2006, for a problem with the sink; and
- vii. He was surprised he has not heard from Hendin, as their rent for October is due shortly.

(b) [REDACTED] Vancouver and spoke with [REDACTED] the tenant, who stated the following:

- i. He moved in July 14, 2006, after he found Hendin on the internet;
- ii. The tenancy agreement was prepared by Hendin and he signed it;
- iii. Hendin was the person who showed him the property;
- iv. Hendin has come once to the property to fix a light bulb; and
- v. The rent was paid three months in advance, most likely through a wire transfer from his company to Hendin.

(c) [REDACTED] Vancouver, and left a business card. In a subsequent phone call with the tenant, [REDACTED], he stated the following:

- i. He met Hendin about 2 ½ years ago;

- ii. He has not seen Hendin in about a year;
  - iii. He pays in advance for each year starting on March 1;
  - iv. He drops off the post dated cheques to Hendin's business address;
  - v. The cheques are made payable to Hendin; and
  - vi. The security deposit was also made out to Hendin.
12. The Staff initiated contact with Hendin on Wednesday, September 13, 2006, by way of a pre-text email. In the email, Hendin was asked to provide photos and information on rental properties. In a reply email dated September 14, 2006, Hendin did provide information with respect to two rental properties by way of internet links to his Website.
13. The properties identified by Hendin as available for rent were identified on his Website as [REDACTED], a condo in the Wall Centre, and [REDACTED], a condo on Bayshore Drive, both located in Downtown Vancouver. The website contained detailed information including a description, features of the unit, local amenities and the monthly rate. Several photographs of the unit were also available.
14. The email exchange was then forwarded on to an Investigator who made a pre-text call to Hendin on Friday, September 15, 2006, using the phone number ([REDACTED]), as identified in the email from Hendin. The Investigator arranged to view the property at [REDACTED] Bayshore Drive.
15. Two Investigators met with Hendin, on Monday, September 18, 2006, at 1:55 P.M. outside the building located at [REDACTED]. Hendin had access to the building and the suite, and he escorted the Investigators to view suite [REDACTED]. Amongst other things, Hendin made the following statements:
  - (a) He should be contacted on his phone number [REDACTED] anytime, 24 hours, in the event of an emergency;
  - (b) He acted for the owners, and had arranged to rent the property before; and
  - (c) Any payment for deposit or rent should be made payable to the owners names, but should be given to him.
16. Hendin provided the Investigators with a copy of a tenancy agreement. Hendin confirmed that the property could be rented under the name of the pre-text company, and the tenant name could be added in at a later date.

17. On Tuesday, September 19, 2006, an Investigator met with Barbara Preston ("Preston"), Compliance Officer for the Council, and the Tenant, at the office of the Council. Amongst other things, the Tenant made the following statements:
- (a) He became aware of Hendin through a referral from his contacts in the movie industry;
  - (b) He signed a tenancy agreement, and agreed that the copy of the tenancy agreement shown to him by Preston was a true copy of the same;
  - (c) At all times he dealt with Hendin, and Hendin was his only contact with respect to the property;
  - (d) Hendin told him to wire the money to the Owner's bank account, but there were problems with the bank information provided by Hendin and he could not make the transfer. Hendin then told him to wire the money to another account, which was Hendin's personal account;
  - (e) He made two transfers to Hendin's bank accounts from his chequing and savings accounts near the end of April 2006 for a total amount of \$9,200.00 dollars. This amount was to cover the pro-rata rent for April of \$1,200.00, and the first and last month's rent of \$4,000.00 each. These transfers were made to Hendin's personal bank accounts located at TD Canada Trust and Van City;
  - (f) He made further transfers of \$4,000.00 to Hendin's personal TD Canada Trust account at the end of May, June and July;
  - (g) He was not aware of the security deposit, he did not know who Royal Pro was, and he did not pay a security deposit to Royal Pro as per clause 3 of the tenancy agreement. At all times, the Tenant was not aware of a security deposit as Hendin called the initial payments first and last month's rent;
  - (h) He was contacted by the Owner at the end of July and she asked how much rent money he had paid. She also asked that he transfer the rent directly to her bank account, and not to Hendin. The Owner provided him with her bank details and he had no problem making the transfer;
  - (i) After this conversation, Hendin continued to organize some repairs on the property for the stove and plumbing. Hendin never mentioned to him that he was not acting for the Owner; and
  - (j) In early September, Hendin left him a message saying that he was no longer involved with the property.

18. In support of his statement, the Tenant provided copies of banking records showing transfers of money from his account to accounts in the name of Howard Hendin at the TD Canada Trust bank and the Van City bank.
19. On September 20, 2006, an Investigator phoned and spoke with [REDACTED] a tenant at [REDACTED] Street, which was a property on the List. [REDACTED] made the following statements:
  - (a) He began his tenancy one week before September 2006;
  - (b) He paid for his rent in advance for six months by way of a bank draft;
  - (c) He handed the bank draft to Hendin;
  - (d) He was unsure if the bank draft was made payable to Hendin or the home owner;
  - (e) He signed a tenancy agreement for six months and this tenancy agreement was prepared by Hendin;
  - (f) He is not sure if a security deposit was included in the payment;
  - (g) He last spoke with Hendin approximately one week ago; and
  - (h) Hendin told him that he would deal with any problems that arose with respect to the suite.
20. Hendin's server for the purpose of running the Website is identified as NetNation Communications Inc., located at Bentall Tower 5, Suite 200, Vancouver, V6C 2B5.
21. Hendin has several listings for his rental property management services on the internet and also a listing in the Vancouver white pages for 2005/2006.

AND WHEREAS I find that:

1. Neither Hendin nor Hendin Properties Inc. is licensed under the Act for the purpose of conducting real estate services within the Province of British Columbia. A license is required pursuant to Section 3 of the Act for a person to provide real estate services to or on behalf of another.
2. Real estate service under the Act includes rental property management services. By taking and receiving rents from tenants, conducting negotiations, preparing contracts, acting as an agent for property owners, showing rental properties, advertising rental properties, and other activities consistent with the provision of rental property management services as defined in the Act, Hendin and Hendin

Properties Inc., themselves and/or as agents for owners of properties, are conducting rental property management activities for which a license is required.

3. Hendin and Hendin Properties Inc. are engaging in real estate services for which a license under the Act is required. Neither Hendin nor Hendin Properties Inc. holds a license under the Act.

I THEREFORE CONSIDER that Hendin and Hendin Properties Inc. are conducting themselves in a manner that would enable me to make an order under section 49 of the Act.

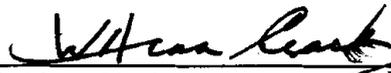
I FURTHER CONSIDER that the length of time that would be required to hold a hearing in order to make an order under section 49 of the Act would be detrimental to the public interest. A hearing would likely take months to prepare for and conduct. The evidence suggests that rent and deposit monies are being placed in the personal bank account of Hendin, an unlicensed person. These monies are at risk as they are not properly being held in a trust account. There is evidence that Hendin has misappropriated funds for his own use. There is the real danger that unless the unlicensed activity of Hendin is stopped immediately, members of the public may lose their deposits and/or homes.

I THEREFORE order pursuant to sections (51(2)(a) and 49(2)(a) of the Act, that Howard Joel Hendin and Hendin Properties Inc.:

1. Cease and desist conducting, directly or indirectly, real estate services, including rental property management services, in British Columbia, effective immediately.
2. Return to the property owners and tenants all books, records and funds which are the property of those same property owners and tenants for which they are providing real estate services including rental property management services.

TAKE NOTICE that Howard Joel Hendin and Hendin Properties Inc. may appeal this Order to the Financial Services Tribunal under section 54(1)(e) of the Act, or require a hearing before the Superintendent under sections 51(3) and 45(6) of the Act.

Dated at the  
City of Surrey,  
Province of British Columbia  
this 22<sup>nd</sup> day of September, 2006.

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

TO: Howard Joel Hendin  
[REDACTED]  
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