

IN THE MATTER OF charges laid under s 91 of the Real Estate Agents Act 2008

BETWEEN **REAL ESTATE AGENTS
AUTHORITY (CAC 10003)**

AND **DELAWER HOOSAIN KUMANDAN**

Defendant

BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

Ms K Davenport - Chairperson
Ms J Robson - Member
Mr J Gaukrodger - Member

APPEARANCES

Mr Hodge for the Real Estate Agents Authority
Mr Kumandan in person

Introduction

[1] On 5 April 2012 the Tribunal issued its decision [2012] NZREADT 15. A Timetable Order was made for filing of submissions. Mr Kumandan raises the preliminary point that the penalty submissions of the Complaints Assessment Committee were filed out of time. These were due to be filed on or about 15 April 2012. In fact they were filed on 20 April 2012.

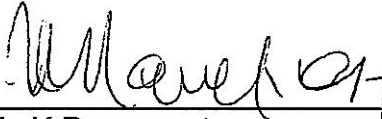
[2] Mr Kumandan invites the Tribunal not to read the submissions of counsel for the Complaints Assessment Committee. Further, he says that "I confirm I have filed a Notice of Appeal in this matter pursuant to my rights under s 116 of the Act" and he sought to have the matter stayed pending the appeal.

[3] It is the Tribunal's understanding that notwithstanding Mr Kumandan's appeal, a penalty must still be imposed by this Tribunal and that in fact time for filing Notices of Appeal does not begin to run until the penalty decision has been issued.

[4] Accordingly, the Tribunal will proceed to make a decision on penalty.

[5] The delay by the Complaints Assessment Committee in filing its submissions on penalty was five days. We do not consider in the circumstances of this case that it would be fair to prevent the Complaints Assessment Committee's submissions from being read. We also, however, do not consider it is fair to proceed in the absence of submissions from Mr Kumandan, given that the Complaints Assessment Committee is seeking to have Mr Kumandan's salesperson's licence (under the 1976 Act the salesperson's certificate) cancelled. In these circumstances we invite Mr Kumandan to file his submissions on penalty within **ten days** of the date of this decision or we will proceed to make a decision in his absence.

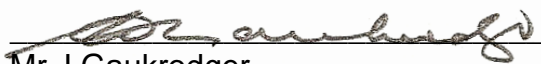
DATED at AUCKLAND this 17 day of May 2012



Ms K Davenport
Chairperson



Ms J Robson
Member



Mr J Gaukrodger
Member