

REAL ESTATE AGENTS LICENSING BOARD

No. 2008/631

IN THE MATTER

of an application under
s99 of the Real Estate
Agents Act 1976

APPLICANT

**REAL ESTATE
INSTITUTE OF NEW
ZEALAND INC.**

RESPONDENT

ABDUL IMTIAZ AZIZ

HEARING: 7th July 2008

DECISION: 15th July 2008

APPEARANCES: S N Haszard for the Real Estate Institute NZ Inc
No appearance for the respondent

DECISION OF THE REAL ESTATE AGENTS LICENSING BOARD

Hon W P Jeffries (Chairperson), P Dudding, M Giera, J Harnett-Kindley and D Russell

INTRODUCTION

The Real Estate Institute of New Zealand Incorporated ["the Institute"] makes an application under S.99 of the Real Estate Agents Act 1976 ["the Act"] for the cancellation of the certificate of approval as a real estate salesperson held in the name of Abdul Imtiaz Aziz.

The Real Estate Agents Licensing Board ["the Board"] refers to its Decision of 11 March 2008 when an application was made by the Institute under sections 99 and 98 of the Act, seeking an interim suspension of the salesperson's certificate on the basis that loss had occurred and there was the possibility of further loss occurring and that it was in the interests of the public that an application for an interim suspension of the certificate occur. For reasons set out in that decision, the Board granted the application and accordingly the certificate of approval was suspended on an interim basis from 11 March 2008.

The application made for cancellation has since been served on the former real estate salesperson and he has been given notice that this hearing would occur on Monday the 7th of July 2008 at 9 a.m. He has chosen not to make an appearance.

There was one witness in support of the application. The witness is the Principal Officer of The Rent Shop Limited, the Papatoetoe office of the Professionals. His name is Mr. Warwick John James. Mr. James evidenced his decision to employ Mr. Aziz for a period of 15 months from November 2006 until the date of termination on 11 February 2008. For the first three months Mr. Aziz was a trainee property manager. On 26 February 2007, Mr. Aziz began work in the position of a letting agent. In this position Mr. Aziz was supported by two other letting agents in the business under the command of Mr. James. According to Mr. James's evidence, the first six months were uneventful. However by August 2007, Mr. James observed a deterioration of the performance of Mr. Aziz. In January 2008 other members of the agency discovered an anomalous situation in that two lettings in relation to properties being Flat 1 at 8 Winspear Place, Papatoetoe and Flat 2 at 164 St Georges Street, Papatoetoe had been let without any supporting documentation in the agency. Following an enquiry by the general manager, Mrs. Sue Thompson, meetings were held with Mr. Aziz and he admitted that he had allowed relatives to engage in tenancies without arranging official documentation evidencing such arrangements. Other persons in the agency then completed the proper arrangements for these tenancies. Mr. James had a session with Mr. Aziz where Mr. Aziz was reprimanded for this event.

Within a few weeks other problems became evident. It is difficult for a person in a position of trust performing duties which by force of law and practice require comprehensive documentary evidence to evade being caught in a net. This is because other events are recorded in the documents or alternatively people who have paid money report independently to the management of the agency the fact that monies have been paid and it is not long before discrepancies are discovered. This is what has occurred in this matter. Mr. Aziz was responsible for receiving three types of funds from people who were taking tenancies. These types of funds were bonds which were to be properly receipted and in turn sent to the Bond Centre; secondly, rental payments usually paid in advance, and thirdly, payment of a letting fee which tenants are liable to pay to the lessor's agent. When these discrepancies became evident, a meeting was arranged to be held between Mr. James and Mr. Aziz.

Mr. Aziz did not meet these meeting arrangements but submitted a letter of admission that he had been responsible for a shortfall in payments. Subsequently, the matter was referred to his parents and over a period of time some \$13,000 had been received from his parents to

reimburse discovered losses. As at the date of hearing there is remaining a sum of \$420 in respect of the discovered discrepancies.

A useful schedule was submitted as an exhibit supporting the affidavit of Mr. James. This schedule is attached.

In this decision a sample of these various evidentiary matters will be referred to.

Firstly in relation to 71 Kolmar Road, the schedule reveals that a letting fee of \$450 was paid by tenants but not receipted by Mr. Aziz. This discrepancy was discovered in January 2008 and on the 1st of April 2008 Mr. Aziz's parents reimbursed the agency for this letting fee which in due course discharged the debt owed by the tenants. Secondly, in relation to 38 Vine Street, a sum of \$434 had been paid by a tenant for the letting fee in relation to this property. This discrepancy was discovered in January 2008. This was a shortfall of \$134. Mr. Aziz's parents met the shortfall on 1 April 2008. Thirdly, in relation to 15 Eden Street, tenants paid a bond to Mr. Aziz in the sum of \$1140. This bond receipt was not evidenced in the documentation of the agency nor referred to the Bond Centre. On 1 April 2008, the parents of Mr. Aziz reimbursed the agency for this sum of money which in due course enabled the agency to allow for this figure to be properly credited to the tenants at the Bond Centre.

Overall the pattern of evidence establishes that some \$13,000 was misappropriated on a systematic basis by Mr. Aziz. This is conduct not compatible with the high standard of trust required by a property manager. This evidence justifies the Institute's application for a cancellation of the certificate of approval, which will occur. The application is granted.



Hon W P Jeffries
Chairperson

PROPERTIES	BOND			RENT			LETTING FEE		
	Total Bond	Received In	Paid Out	Total Rent	Received In	Paid Out	Letting Fee	Paid In	Outstanding
71 Kolmar Rd Discovery Date Jan 2008 LL South Pacific Building Ind. TN Lieita Tunufai		To be collected by LL Maila confirmed with LL		To be collected by LL Maila confirmed with LL			\$450.00	AA parents 01/04/08	
38 Vine St Discovery Date Jan 2008 LL South Pacific Building Ind TN P Tafolo & L Fakatava		To be collected by LL		To be collected by LL			\$434.00	\$250.00 505018 12/10/07 \$184.00 AA parents 01/04/08 \$105.00554125 13/2/08 \$323.00 AA parents 01/04/08	
15 Greenstone Place Discovery Date Jan 2008 *Received BT LL S Korotania & S Singh TN Cashilda Solomona	\$1,140.00	\$195.00 Receipt 554125 13/2/08 \$945.00 Bond Transfer		\$380.00 Receipt 554125 13/2/08	\$380.00 Receipt 554125 13/2/08		\$428.00		
1/118 Rangitoto Rd Discovery Date 14/2/08 LL Mila Masiasoma TN Sarup Singh	\$960	AA parents 03/03/2008 565486	\$960.00 Cq 138102 12/03/2008	\$320	AA parents 03/03/2008 565486	\$320.00 Cq 137101 12/03/2008	\$360	AA parents 01/04/08	
1/50 Birdwood Ave (No.1) Discovery Date 13/2/08 LL Rajesh Thakur TN S Nandpuri & N Kaur	\$1,080 AA Receipt 362582 19/01/2008	AA parents 03/03/2008 565486	\$1,080.00 Cq 138103 12/03/2008	\$360 AA Receipt 362582 29/1/08			\$405 AA Receipt 362582 29/1/08	AA parents 01/04/08	
1/50 Birdwood Ave (No.2) Discovery Date 27/2/08 LL Rajesh Thakur TN N Nilesch & S Dass	\$1,050	AA parents 03/03/2008 565486	\$1,050.00 cq 138104 12/03/2007	\$350	AA parents 01/04/08	CQ 138232 11/04/2008	\$394	AA parents 01/04/08	
15 Eden Street Discovery Date 3/3/08 LL Beverly Tufala TN Deepa D Sen	\$1,140	AA parents 01/04/2008	CQ 138229 11/04/2008	\$760 AA Receipt 879625 24/09/2007	Confirmed Pd to LL direct 25/09/07		\$428 Receipt 499168 12/9/07		

PROPERTIES	BOND			RENT			LETTING FEE		
	Total Bond	Received In	Paid Out	Total Rent	Received In	Paid Out	Letting Fee	Paid In	Outstanding
2/23 Coronation Road Discovery Date 3/3/08 LL Beverly Tufala TN Ramen D Sharma	\$840.00	AA parents 01/04/2008	CQ 138230 11/04/2008	\$560.00	AA parents 01/04/08 11/04/2008	CQ 138231 11/04/2008	\$260.00 AA Receipt 879627 02/12/2007	AA parents 01/04/08	
30 Hamilton Rd Discovery Date 10/03/08 LL Maya Segran TN Surinder Nandpuri	\$1,140.00			\$380.00			\$427.50 No receipt given to TN's	AA parents 01/04/08	
2/115 Kolmar Road Discovery Date 29/3/2008 LL Uma Nand TN Sipili lan Ieremia	\$1,160.00				Abdul paid first week rent to Maya			Balance due at 11/04/08 Funds remaining	\$0.00 \$396.50
31/3/08 LL advised is sorting this out direct with Abdul no further action required from TRS							\$326.00		
28 Cambridge Terrace Discovery Date 28/3/08 LL Sundeepan Modgil TN Ronil Nand	\$1,050.00	\$200 AA 30/04/2008 \$500 AA 05/05/2008	\$1,050.00 CQ 138403 23/05/2008				\$394.00		
73 Hillside Road Discovery Date 01/05/08 LL Savilesh Family Trust TN Kirsten Marie Neckelson	\$960.00			\$320.00		By AA	\$360 AA879629		\$1,640.00