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Real estate licensee found guilty of unsatisfactory conduct

A Complaints Assessment Committee (CAC) appointed by the Real Estate Agents Authority has found an Auckland real estate licensee salesperson guilty of unsatisfactory conduct after he misled a vendor over his commission fee.

In a recent CAC decision, Lawrence Lalit Naidu of Sega Realty was found to have engaged in unsatisfactory conduct as defined by the Real Estate Agents Act 2009.

A complaint was laid against Mr Naidu last December after there was a discrepancy between the commission fee he told a vendor would be payable on sale and what was ultimately charged by Sega Realty in October 2009. The vendor was charged \$5,287 more than she was led to believe from the oral agreement about a commission made with Mr Naidu when she first signed up her house listing.

Commenting on the decision Authority Chairperson Kristy McDonald QC said “the committee said it was satisfied that Mr Naidu’s failure to adequately and accurately explain the commission that would be charged to the complainant and her husband falls short of the standard that a reasonable member of the public is entitled to expect from a reasonably competent licensee”.

“Further, the Committee is satisfied that it would reasonably be regarded by agents of good standing as being unacceptable conduct.”

As the conduct occurred prior to the Real Estate Agents Act 2008 coming into force on November 17 2009, the penalty applied was that available under the Real Estate Agents Act 1976 (now repealed) rather than the 2008 Act. The CAC was not able to apply any penalties against Mr Naidu as no penalties could be imposed against a salesperson licensee for the equivalent unsatisfactory conduct under the 1976 Act.

The CAC recognised that its ability not to impose a penalty was unsatisfactory; however, it represents the limitations of the previous Act. But committee members noted in their decision that these difficulties no longer remained for conduct that occurred after 17 November 2009.

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or visit www.reaa.govt.nz for a full copy of the decision.