

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 011237.001
Name on Licence: Jason Michael Duncan
Licence Sector and Class: Mortgage Broker
Current Brokerage RentPerks Alberta LP
Conduct Brokerage: RentPerks Alberta LP
Process: A Hearing under Part 3 of the *Real Estate Act*

NOTICE OF HEARING

TO: Jason Michael Duncan

A hearing is set for your appeal. Read this entire document to see what you must do.

Hearing Information

Date: May 29 and 30, 2024
Time: 9:30 a.m.
Venue: Virtual Hearing
Hearing Panel: [W.K]
[J.L]
[A.S]
(Alternates: [G.F], [B.R], [B.W])
Counsel to the Panel: Marc Matras, Gowling WLG

The Administrative Penalty issued to you is attached.

Virtual Hearings

Hearings at RECA are conducted virtually using Microsoft Teams. The Hearing Administrator will provide you with the Guide to Virtual Hearings and you will receive assistance to participate in the virtual process.

Why You Should Attend the Hearing

The hearing is your opportunity to respond to the allegations and state your side of the case in front of the Panel.

Learn About the Hearing Process

Please read these guides on the RECA website

<https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal*
- *RECA Self-Represented Program*

Before the Hearing

You will receive full disclosure of all evidence gathered by the Registrar relevant to the allegations in this Notice of Hearing for your review. This disclosure is for use in the conduct proceedings only and you may not use it for any other purpose.

You are also invited to meeting with Counsel for the Registrar prior to the hearing to consider entering agreement on non-contested matters such as:

- An admission of conduct deserving of sanction
- An agreement on facts
- An agreement on breaches
- An agreement on a finding of conduct deserving of sanction
- An agreement on sanction and/or costs.

Admissions or agreements can reduce the time and costs of the hearing.

What You Should Bring to the Hearing

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

What Will Happen If You Don't Attend

If you do not attend the Panel may proceed to make a decision without you.

What Will Happen At the Hearing

If the Panel finds a breach has been proven the Panel may do one or more of the things listed in **section 83.1(5)** of the *Real Estate Act*:

- Quash, vary or confirm the administrative penalty
- Order you to pay the costs of the investigation and the hearing.

Making Oral and Written Arguments to the Hearing Panel

The Hearing Panel may accept oral and/or written arguments as part of the hearing. If the Hearing Panel accepts written arguments, it will set dates for the written arguments to be exchanged before accepting them.

You Can Get Legal Advice

You may get legal advice and may be represented by legal counsel at the hearing. If you do not have a representative please read information for unrepresented Industry Members here:

<https://www.reca.ca/complaints-discipline/hearings-information-procedures/>

If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, you must advise the Hearings Administrator **who you object to and why within 14 days** of receiving this Notice. If you do not object to the Panel within 14 days, this Panel will conduct the hearing.

Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Registrar and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on April 15, 2024

Warren Martinson, Registrar
of the Real Estate Council of Alberta

Contact Information

Hearings Administrator:	Administrator for Counsel for the Registrar:
Email: hearingsadmin@reca.ca	Email: conductadmin@reca.ca
Fax: 403 228 3065	Fax: 403 228 3065
Direct: 403 685 7913	Direct: 403 685 7944
Toll Free: 1 888 425 2754	Toll Free: 1 888 425 2754
Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9	Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9

THE REAL ESTATE COUNCIL OF ALBERTA

Case Number: 011237
Name on Licence: Jason Michael Duncan
Licence Type & Class: Real Estate Broker
Brokerage Name on Licence: RentPerks Alberta LP
Process: Section 39 & 83 of the *Real Estate Act*

Document: ADMINISTRATIVE PENALTY
Penalty: \$1,000.00

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Registrar may commence collection under Part 6 of the *Real Estate Act* and may suspend your licence under section 38.1 of the Rules.

If you pay the Penalty

- You will have satisfied the Administrative Penalty and no further proceedings under Part 6 will be taken against you.
- You cannot be charged under the *Real Estate Act* with an offence for the contravention(s) in this Administrative Penalty.

TO: Jason Michael Duncan

The Registrar of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 43(1) of the *Real Estate Act* Rules** and this is conduct deserving of sanction.

43(1) – Subject to these rules, a licensee who establishes a client relationship when trading in residential real estate, engaging in property management, or when dealing in mortgages must enter into a written service agreement with that prospective client.

Particulars of the contravention(s):

1. In or around December 2019 you failed to enter into a written service agreement with a client contrary to section 43(1) of the *Real Estate Act* Rules:
 - a) In December 2019 you purchased the book of business from Picasso Properties. Consequently, several property owners became clients of RentPerks Alberta LP.
 - b) You failed to enter into a written service agreement with clients. This created confusion on your obligations to a client and what authority the brokerage had to act on the client's behalf.

A written service agreement outlines the roles and responsibilities of the parties, clarifies the expectations of each party, and helps to ensure the client understands their relationship with the brokerage. Clarity of roles, responsibilities, and expectations is essential to consumer trust and confidence.

The Registrar considered the following aggravating and mitigating factors:

Aggravating Factors

- Your failure to present and discuss the written service agreement when establishing the client relationship led to confusion on your obligations with a client.

Appeal

You have the right to appeal this Administrative Penalty to a Hearing Panel. See **section 83.1 of the *Real Estate Act*** for what you must do to appeal.

In an appeal you will be given a full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel in relation to the contraventions alleged.

Your written notice of appeal must comply with section 83.1 and must be received by the Registrar **within 30 days** of you receiving this Administrative Penalty.

If you appeal, payment of the Penalty will not be required until an order to pay a penalty is issued by the Hearing Panel. If you have any questions regarding particulars or the appeal process, please contact:

Name: [C.S], Investigator
Email: [EMAIL]
Phone: 403.228.2954; Toll Free: 1.888.425.2754
Fax: 403.228.3065
Address: Real Estate Council of Alberta
Suite 202, 1506 11 Avenue SW
Calgary, Alberta, T3C 0M9

Issued at Calgary, Alberta, on May 5, 2022.

"Signature"

Charles Stevenson, Registrar
Real Estate Council of Alberta