

October 8, 2019
December 9, 2019

Case Summaries

Letters of Reprimand

Administrative Penalties

Hearing Panel Decision

Case Summaries

Welcome to the Case Summaries monthly magazine.

Inside you will find the summaries for all disciplinary decisions occurring at the Real Estate Council of Alberta (RECA) since the previous newsletter, including any suspensions and approved lifetime withdrawals from the industry.

RECA is authorized to carry out conduct proceedings under [Part 3](#) of the *Real Estate Act*.

Questions about disciplinary information RECA publishes and why? Review [RECA's Publication Guidelines](#) online.

For more information about the cases summarized in this publication, please click on the underlined blue heading at the start of each summary.

Letters of Reprimand

Click on names to view the full decision

[Alija Alickovic](#)

Real estate associate registered with Thorndale Holdings Ltd. o/a Re/Max Select

- industry members must provide competent service [41(b) of the *Real Estate Act Rules*]
- Ms. Alickovic measured a property as having an above grade size of 1,151.75 square feet
- Ms. Alickovic used a wheel to measure the property, this measuring tool was not appropriate for an accurate Residential Measurement Standard (RMS) measurement
- Ms. Alickovic realized the measurement did not look correct and went back to measure the property with measuring tape
- the property size was 985.77 square feet

Industry professionals must provide competent service. In this case, the industry professional failed to accurately measure the property according to Residential Measurement Standard (RMS) guidelines. The RMS requires real estate professionals to personally measure, or engage a qualified person to measure, all properties they are listing for sale.

[Ahmed El-Damanhoury](#)

Mortgage associate registered at the time of conduct with TMG The Mortgage Group Alberta Ltd. o/a TMG; currently registered to Brokers For Life Inc o/a Dominion Lending Centres Brokers For Life

- a mortgage associate must provide to the broker in a timely manner all original documentation and copies of original documents provided to the parties or maintained by other brokerages related to dealings in mortgages [s.69(d) of the *Real Estate Act Rules*]
- in December 2015, Mr. El-Damanhoury created a mortgage application for his clients
- Mr. El-Damanhoury, continued to try to obtain financing for his clients through January 2016
- Mr. El-Damanhoury failed to provide any documentation to his brokerage for this transaction

Mortgage associates must keep their brokerage up-to-date on all activities regarding the brokerage. In this case, the associate did not provide the necessary documentation to his brokerage, putting the brokerage at risk. Associates must provide all documentation to the brokerage, which allows the brokerage to be aware of all activities.

Letters of Reprimand

Natasha Eden,

Real estate associate registered with Urban Real Estate Services Ltd. o/a Urban-Realty.ca

- industry members must provide competent service [41(b) of the *Real Estate Act* Rules]
- Ms. Eden was representing both the buyers and sellers in a transaction
- on June 14, 2017, Ms. Eden prepared a purchase contract on behalf of the buyer
- this was a backup offer, as the seller had already accepted an offer
- Ms. Eden failed to make the backup offer conditional on the first accepted purchased contract falling through
- Ms. Eden's clients reviewed the purchase contract and contacted her to advise that she failed to write that this was a backup offer
- on June 14, 2017, the buyer and seller agreed to an amendment stating it was a backup offer

Industry professionals must provide competent service. They must conduct themselves honestly and ethically when in the care and control of money, property, and information. In this case, the associate should have ensured that the buyers purchase contract stated that it was a backup offer.

Alexander Khalil,

Mortgage broker with 1058757 B.C. Ltd. o/a Dominion Lending Centres Mortgage Evolution - Alex Khalil, at the time of conduct registered with Mortgage Evolution Brokerage corporation o/a Dominion Lending Centres - Mortgage Evolution

- mortgage brokers who establish a client relationship when dealing in mortgages must enter into a written service agreement with that prospective client [s.43(1) of the *Real Estate Act* Rules]
- on October 24, 2016, Mr. Khalil created a mortgage application after a client verbally agreed that he would represent them as a borrower
- on November 3, 2016, Mr. Khalil added a second client to the mortgage application and pulled credit information for both clients
- during November 2016 Mr. Khalil submitted mortgage applications for financing on behalf of both clients
- on December 10, 2016 Mr. Khalil entered a written service agreement with the clients
- from Oct 24, 2016 to December 9, 2016, Mr. Khalil did not have a written service agreement in place

Industry members must enter into a written service agreement with a prospective client when establishing a client relationship to trade in residential real estate, property management, or deal in mortgages. In this case, Mr. Khalil failed to enter a written service agreement when establishing a client relationship.

Letters of Reprimand

David Jack McKitrick,

Mortgage broker registered with Northern Alliance Financial Corp.

- a brokerage must immediately notify the executive director in writing of a change in the directors, officers or shareholders of a corporation if the brokerage is a corporation [s.32(g) of the *Real Estate Act* Rules]
- Mr. McKitrick was the broker at the time of Northern Alliance Financial Corp.
- on March 1, 2019, Northern Alliance Financial Corp. made a change to their corporate structure
- RECA was notified on June 13, 2019

Section 32 of the *Real Estate Act* Rules requires brokerages to immediately notify the executive director, in writing, when certain events occur. RECA defines immediately as “without delay,” and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five days after the event in question. In this case, the brokerage waited several months to notify RECA.

Ramandip Kaur Bains,

Real estate associate registered with Taurus Real Estate Ltd. o/a Re/Max Professionals

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act* Rules]

Derek Jay Berreth,

Real estate appraiser

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act* Rules]

Greg Glen Dobko,

Real estate associate broker registered with Grande Prairie Associates Realty Ltd. o/a Re/Max Grande Prairie

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act* Rules]

Michael Emmanuel Francis,

Real estate associate registered at the time of conduct with 1800086 Alberta Ltd. o/a First Place Realty and Diamond Realty & Associates Ltd., currently not registered

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act* Rules]

Letters of Reprimand

[Bradley Andrew Grier,](#)

Real estate associate registered with 1453029 Alberta Ltd. o/a Royal LePage Solutions

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Vasilios Kutsogiannis,](#)

Real estate broker registered with Vasilios Kutsogiannis o/a Janus Realty

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Harris Roy Pipella,](#)

Real estate associate registered at the time of conduct with Lizotte and Associates Real Estate Inc., currently not registered

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Terence Harold Walsh,](#)

Real estate associate Broker registered with Canadian Independent Realty Ltd. o/a CIR Realty

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Skyeleah Theresa Woodburn,](#)

Real estate associate registered with Royal LePage - The Realty Group Ltd. o/a Royal LePage The Realty Group

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

[Leslie Dawn Zilkowsky,](#)

Real estate appraiser, currently not registered

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

Industry members must immediately notify, in writing, the executive director when certain events occur. In these cases, the industry professionals had situations requiring notification occur several months before they notified the executive director. Immediately is defined as "without delay," and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five days after the event in question.

Administrative Penalties

Blain Frederick Huolt,

Real estate broker, previous registered with Solace 3 Percent Realty Corporation, currently ceased, currently not registered

- failed to file brokerage accounting within three months of the fiscal year end [s. 91(4) of the *Real Estate Act* Rules]
- the brokerage fiscal year end was June 30, 2019
- RECA sent numerous email reminders to file the appropriate forms by September 30, 2019
- Mr. Huolt failed to file the fiscal year end by September 30, 2019
- \$1,500

A brokerage must file its accounting with RECA no later than three months after the end of the brokerage's fiscal year. In this case, the broker failed to file the forms by the deadline despite RECA sending numerous email reminders.

Blain Frederick Huolt,

Real estate broker, previous registered with Solace 3 Percent Realty Corporation, currently ceased, currently not registered

- a real estate broker must ensure the business of the brokerage is carried out competently and in accordance with the Act, Regulations, Rules and Bylaws [s.51(1)(d) of the *Real Estate Act* Rules]
- Mr. Huolt was the broker and was required to file his brokerages accounting report within three months of the fiscal year end
- Mr. Huolt failed to file his brokerage accounting report on time in 2017 and 2019
- in 2017, the issue was brought to Mr. Huolts attention and he understood the importance of ensuring his brokerage accounting form were filed on time
- Mr. Huolt failed to plan accordingly to ensure the accounting forms were filed on time
- Mr. Huolt's brokerage failed to file their accounting forms on time in 2019
- \$1,500

Brokers are expected to amend and adapt brokerage policies and procedures as required and to take necessary corrective measures to ensure the business of the brokerage is compliant with RECA legislation. In this case, Mr. Huolt failed to take steps to ensure his brokerage would file the necessary forms with RECA on time.

Administrative Penalties

Shirley Eileen Evans,

Real estate associate registered with Real Estate Professionals Inc.

- a real estate broker, associate broker or associate, must not accept a commission, referral fee or other remuneration, directly or indirectly, for a trade in real estate except through the brokerage with which he is registered [s.54(1)(c) of the *Real Estate Act Rules*]
- Ms. Evans represented both the buyer and sellers in a private deal to purchase a property
- the deposits for this transaction were held with a law firm
- in January 2015, a cheque for commissions earned was issued directly to Ms. Evans from the law firm
- this constituted accepting a commission for a trade in real estate outside of the brokerage Ms. Evans was registered with
- \$1,500

Industry professional must ensure that the commissions they receive from a transaction is from the brokerage they are registered with and not any other outside party. In this case, the associate accepted a commission from a law firm and not their brokerage.

Shirley Eileen Evans,

Real estate associate registered with Real Estate Professionals Inc.

- a real estate associate must provide to the broker in a timely manner all original documentation and copies of original documents provided to the parties or maintained by other brokerages related to a trade in real estate [s.53(c)(i) of the *Real Estate Act Rules*]
- Ms. Evans represented both the buyer and sellers in a private deal to purchase a property
- Ms. Evans failed to provide any documentation to her brokerage at the time this transaction took place
- the broker was unaware of this transaction until months later
- Ms. Evans then provided documentation to the broker at their request
- \$1,500

As a real estate associate you must provide all transaction documentation to your broker for trades and potential trades in a timely manner. Brokerage policies, procedures, and expectations define what appropriate time frame is to submit transaction documentation to the brokerage.

Administrative Penalties

Natasha Sarah Stenzel,

Real estate associate registered with Masters Realty Ltd. o/a Century 21 Masters

- industry members must fulfill their fiduciary obligations to their clients [s.41(d) of the *Real Estate Act* Rules]
- Ms. Stenzel was the buyer's representative in the purchase of the property
- on February 2, 2019, the buyer made an offer to purchase on a property, which was accepted
- the buyer had a financing condition
- the buyer was working with a mortgage broker to get financing, Ms. Stenzel was also communicating with the mortgage broker
- on February 25, 2019, the buyer received a mortgage commitment from the mortgage broker, there were several conditions, the mortgage broker explained what a commitment was
- on February 25, 2019, the buyer asked Ms. Stenzel "Is that a yes? What's a commitment?" Ms. Stenzel responded to this text "Yes."
- when the buyer asked this question, Ms. Stenzel had a fiduciary obligation to either provide a full explanation of risks or refer them to the mortgage broker
- by answering "yes", Ms. Stenzel led her client to believe that financing was approved
- on February 26, 2019, the buyer waived the financing condition
- on February 27, 2019, the mortgage broker informed the buyer that they would let them know when they were officially approved and could waive financing
- on February 27, 2019, Ms. Stenzel communicated with the buyer that they were "all good"
- on March 1, 2019, the buyer received confirmation that their financing had been declined
- the buyer was not able to apply for financing again until early May 2019
- on March 8, 2019 Ms. Stenzel confirmed to her client that they would be able to get their deposit back if obtaining financing was not possible
- Ms. Stenzel's clients received some of their money back, but incurred other expenses relating to the transaction
- \$1,500

Assuming the client has given permission to the mortgage broker to speak to the real estate professional about financing, it is only for informational purposes to help advise the client on potential risks of waiving financing. In this case, Ms. Stenzel had open lines of communication with the mortgage broker. The mortgage broker was clear that financing was still ongoing. Implying that financing was a "yes" or after the fact "we are all good" texts were misleading and did not accurately describe the risk associated with the client's financing.

Administrative Penalties

Norman Leslie Ferguson,

Real estate associate previously registered with 4th Street Holdings Ltd. Re/Max Real Estate (Central), currently not registered

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]
- \$1,000

Industry members must immediately notify, in writing, the executive director when certain events occur. In these cases, the industry professionals had situations requiring notification occur several months before they notified the executive director. Immediately is defined as “without delay,” and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five days after the event in question.

Quinn Hai Loc,

Real estate appraiser

- industry members must not engage in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute [s.42(g) of the *Real Estate Act Rules*]
- on August 7, 2019, Mr. Loc attended a property to conduct an appraisal.
- Mr. Loc was in the property alone
- during the appraisal Mr. Loc went into the property owner’s bedroom and opened a dresser drawer
- the dresser drawer contained the property owner’s personal belongings
- reviewing personal items of a property owner in a dresser drawer was outside the scope of the appraisal
- this conduct was not professional and undermined public confidence in the industry
- \$1,500

RECA’s Good Character Policy defines professionalism as a standard expected of industry professionals. Appraisers may attend properties unsupervised to perform an appraisal, however consumers must trust that their property and belongings will be treated with respect and all inspection of property and belongings is consistent with the scope of services being provided.

Administrative Penalties

Richard Troy Irvine,

Real estate associate previously registered with 697567 Alberta Ltd. o/a Sutton Group Grande Prairie Professionals. Currently registered to Grande Prairie Associates Realty Ltd. o/a Re/Max Grande Prairie

- industry members must ensure the role of the industry member is clearly understood by their clients and third parties [s.41(e) of the *Real Estate Act* Rules]
- in November 2017, Mr. Irvine represented the sellers, the sellers signed a Consumer Relationship Guide and an Exclusive Seller Representation Agreement
- Mr. Irvine represented buyers who made an offer on the seller's property
- Mr. Irvine did not have a service agreement in place with the buyers
- representing both the buyers and the sellers presented a conflict of interest
- neither the sellers nor the buyers agreed in writing to resolve the conflict of interest allowing Mr. Irvine to represent both parties
- an agreement to represent both seller and buyer was not signed
- the buyers and one of the sellers understood what Mr. Irvine's role was, however one of the sellers was confused about Mr. Irvine's role and that Mr. Irvine was also representing the buyers
- \$1,500

Industry professional's must ensure their actions and paperwork are all consistent with their role in a transaction. Mr. Irvine never had both parties sign an agreement in writing that he would be representing both the buyer and the sellers in the transaction.

Administrative Penalties

Dallas Moravec,

Real Estate Associate registered with Re/Max Real Estate (Edmonton) Ltd. O/A Re/Max Real Estate

- industry members must fulfill their fiduciary obligations to their clients [s.41(d) of the *Real Estate Act* Rules]
- in June 2017, Mr. Moravec represented both the buyer and seller in a real estate transaction
- the buyer's solicitor contacted Mr. Moravec and indicated they were having a hard time getting an original copy of the Power of Attorney and Medical Letter
- around June 30, 2017, Mr. Moravec picked up the original copy of the Power of Attorney and medical letter from the seller and delivered them to the buyer's solicitor
- Mr. Moravec informed the sellers he would return the documents to them
- Mr. Moravec had a fiduciary duty to understand what the documents were being used for and when and how they would be returned
- on July 11, 2017, Mr. Moravec informed the sellers he had one of the original documents in his possession, this was not the case
- Mr. Moravec failed to return the documents, as a result the sellers had to retain a lawyer to retrieve the documents
- the sellers incurred legal costs retrieving the documents
- \$3,000

Industry professionals have a duty to ensure they are acting in the best interest of their clients. Industry professionals must take care to ensure that any information provided to any party is accurate and not misleading. In this case, the associate should have returned the documents to the sellers as agreed and never informed them that he had them when that was not the case.

Administrative Penalties

Dallas Moravec,

Real Estate Associate registered with Re/Max Real Estate (Edmonton) Ltd. O/A Re/Max Real Estate

- a real estate associate must not directly or indirectly provide an inducement unless the inducement is provided by and on behalf of the brokerage with which the real estate associate is registered, details of the inducement are provided in writing and the broker has provided written approval [s.54(2) of the *Real Estate Act Rules*]
- in June 2017, Mr. Moravec offered to pay his seller clients \$500 as an inducement to get them to accept the offer to purchase by Mr. Moravec's buyer clients
- Mr. Moravec failed to put this inducement in writing, or to get approval by his broker
- Mr. Moravec failed to pay the inducement at the closing date of the transaction despite the sellers asking multiple times when it would be paid
- on September 27, 2017, the sellers submitted a complaint to the Real Estate Council of Alberta
- on October 2, 2017, Mr. Moravec paid the seller \$500
- \$1,500

For an industry professional to offer an inducement they must receive written approval of the inducement from their broker and give the details of the inducement to the party of the transaction in writing. The broker's approval may be on a case-by-case basis or by a written brokerage policy. The policy should specify what types and the value of inducements the associate can offer on behalf of the brokerage. In this case, the associate failed to get broker approval before offering the inducement. The associate also failed to honour the pay deadline that was offered with the inducement.

Hearing Panel Decision

[Mehboob Ali Merchant](#),

Real Estate Associate registered with Century 21 Platinum Realty Inc.
o/a Century 21 Platinum Realty

Issues:

[s.17 of the *Real Estate Act*]

- no person shall
 - (a) trade in real estate as a real estate broker
 - (b) deal as a mortgage broker
 - (c) act as a real estate appraiser, or
 - (d) advertise himself or herself as, or in any way hold himself or herself out as, a mortgage broker, real estate broker or real estate appraiser unless that person holds the appropriate authorization for that purpose issued by the Council.

[3 breaches of s.42(b) of the *Real Estate Act* Rules]

- industry members must not participate in fraudulent or unlawful activities in connection with the provision of services or in any dealings

[s.38(4.1) of the *Real Estate Act*]

- a person shall not withhold, destroy, conceal or refuse to produce any books, documents, records or other things required for the purpose of an investigation under this section

Facts:

- Mr. Merchant accepted \$20,000 from his client and deposited it into his own holding company's bank account. This money belonged to his brokerage. This is theft.
- Mr. Merchant engaged in property management services while knowing his brokerage was not authorized to do so.
- Mr. Merchant rented out his client's condo without their knowledge or permission. He also did not disclose this to the tenant. Once his scheme was discovered by the client, Mr. Merchant offered the client a lower amount of rent than the rent collected from the tenant, keeping the difference for himself. This is fraud.
- The tenant who rented the condo was forced to move unexpectedly costing both the renter and his client unforeseen expenses.
- Mr. Merchant, pretending to be his brokerage, tried to deceive his client into signing a lease with a similarly named corporation from which he could personally profit. This corporation's registered name imitated the name of his brokerage. This is identity fraud.

Hearing Panel Decision

- Mr. Merchant intentionally withheld documents requested by RECA investigators.
- Mr. Merchant intentionally committed the theft, fraud, and identity fraud with full knowledge he was deceiving his victims for the purposes of enriching himself.

Outcome:

The Hearing Panel ordered the following sanctions against the Industry Member:

1. All authorizations issued by the Real Estate Council of Alberta ("RECA") to Mehboob Ali Merchant are cancelled, effective immediately;
2. Mehboob Ali Merchant will not be eligible to apply to RECA for any new authorization whatsoever for a period of 12 months from October 17, 2019;
3. Mehboob Ali Merchant will be required to successfully complete all education requirements before being eligible to apply for a new authorization from RECA, as though he had never previously received authorization from RECA;
4. Mehboob Ali Merchant shall pay all the fines set out below before being eligible to apply for a new authorization from RECA;
5. Mehboob Ali Merchant shall pay a fine for the three (3) breaches of Rule 42(b) of the *Real Estate Act* Rules in the total amount of \$15,000.00;
6. Mehboob Ali Merchant shall pay a fine of \$1,000.00 for the breach of section 17 of the *Real Estate Act*;
7. Mehboob Ali Merchant shall pay a fine of \$5,000.00 for the breach of section 38(4.1) of the *Real Estate Act*; and
8. Mehboob Ali Merchant shall pay costs of the investigation and hearing of \$1,500.

RECA Management

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Real Estate Council of Alberta.

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