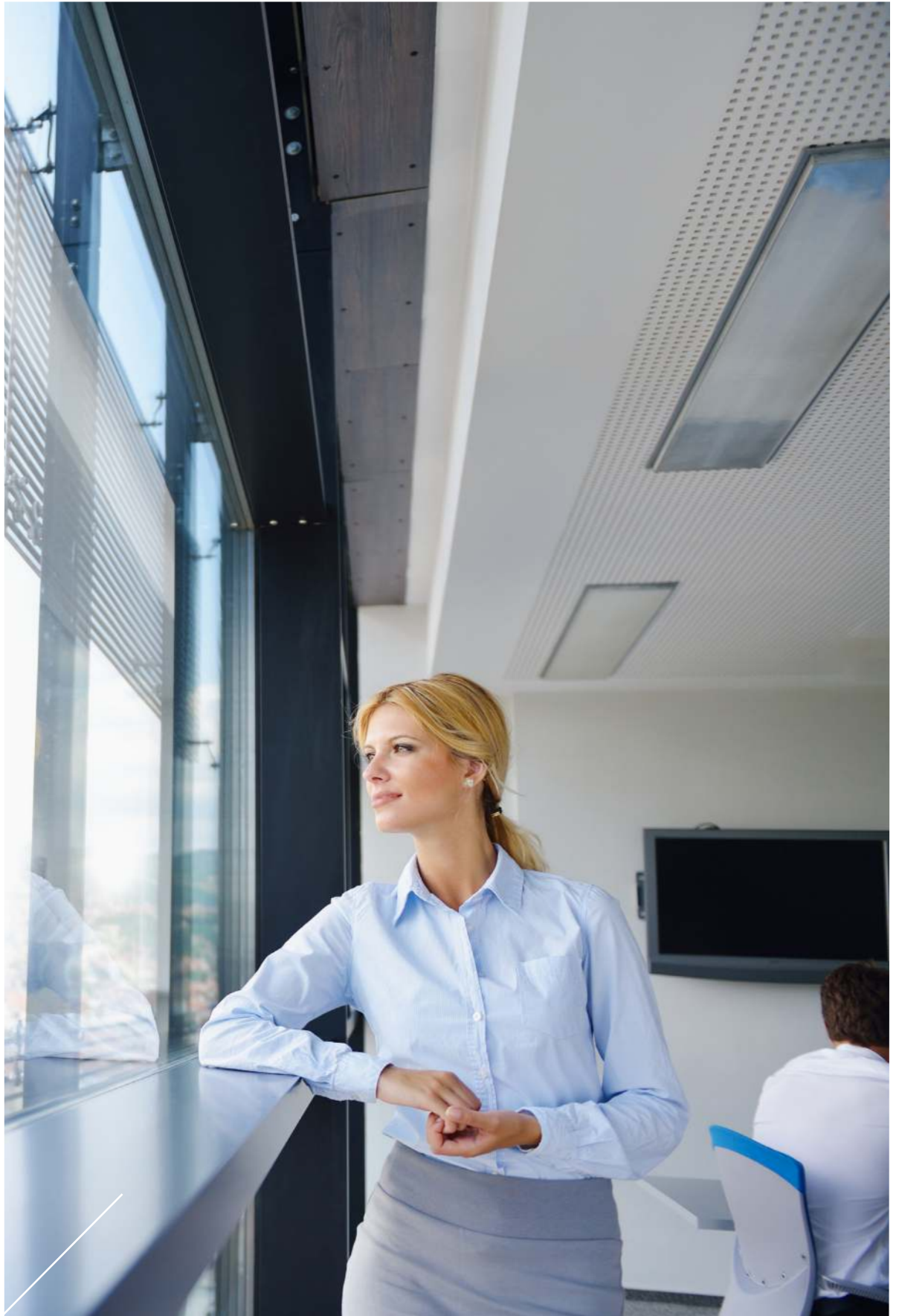


A man and a woman in business suits are walking in a modern office setting. The woman is on the left, wearing a grey pinstriped suit and glasses, carrying a black bag. The man is on the right, wearing a dark grey pinstriped suit, glasses, and a blue tie, carrying a silver briefcase. They are both smiling and looking towards the right. The background is a blurred office environment with a grey wall and a white railing.

Real Estate Council of Alberta Statement on Self-Regulation



Statement on Self-Regulation

At its meeting on April 4, 2012 Council passed a motion to approve the Statement on Self-Regulation

RECA is mandated to protect consumers and to provide services that enhance and improve the industry and the business of industry professionals.

RECA builds consumer trust and confidence in the industry professional by:

- setting and enforcing standards of conduct and professional development requirements for the industry to protect the consumer
- providing services that enhance and improve the industry
- promoting the integrity of the industry
- protecting against, investigating, detecting and suppressing mortgage fraud as it relates to the industry

The public interest is best served when all industry professionals are provided the opportunity to be as good as they can be and all stakeholders collaborate to promote and support an environment in which licensees can flourish whilst ensuring the best possible experience for the public within the real estate profession.

The Real Estate Council of Alberta will:

- be seen as an impartial, principles-based governing body, facilitating excellence in self-regulation, individual responsibility and accountability
- advance the knowledge, career preparation and ongoing practice in the industry through professional development programs and services
- establish and promote quality standards and performance improvement solutions in a fair and respected manner that enhances public protection, trust and confidence in the real estate industry.



Philosophy of Self-Regulation

Society seeks both the preservation of individual freedoms and the prevention of harm. In civil society, to achieve these goals, regulation is necessary and compliance with the rule of law is fundamental. However, regulators often find themselves between these competing goals.

RECA's approach to this societal challenge is to seek a regulatory balance in the fulfillment of its legislative mandate. This regulatory balance takes into account a number of elements: Alberta's culture, norms and values; the importance of consumer choice; the desire of real estate professionals and brokerages to provide services through business models of their choice; and, the need for a real estate industry that has the trust and confidence of consumers.

Accordingly, RECA will be guided by the following values and principles as it carries out its mandate as the governing body for the real estate industry.

Accountability of Real Estate Professionals

Real estate professionals and brokerages will be acting with a professional mindset as they deliver services to the public. They have the primary responsibility for effective self-regulation. Their standards of conduct and business practices collectively will determine the value and integrity of the industry. They are ultimately accountable for their conduct to clients, colleagues and the governing body.

The individual and collective willingness of the industry to provide competent



service, act ethically, and achieve widespread compliance with the REA Rules is a more powerful and fundamental self-regulatory mechanism than the imposition of sanctions by RECA. The level of trust and confidence in the industry is determined by its individual and collective commitment to this principle.

RECA's Focus on the Public Interest

As a facilitator of self-regulation, RECA will be focused on the public interest. It will be an independent body that is fair, transparent and accountable. It will follow a model of regulation that reflects the evolution of professionalism within the real estate industry.

Principles-Based Approach

To the extent possible, RECA will use a principles-based approach to rule making and setting standards for the industry. REA Rules will be supplemented with information resources to assist industry professionals with compliance, as required. Reporting and accounting rules will require greater detail; however, flexibility in these rules will be incorporated, where it is practical to do so, to reflect ongoing changes in technology and the business environment.

Commitment to the Spirit of Self-Regulation

Legislation governing the business of industry professionals is intended to promote the integrity of the industry and protect consumers. It is intended to be comprehensive and effective. The drafting of statutes, regulations and rules is a challenge for government and a regulatory body such as RECA. Rules may not always be clearly written nor is it possible to establish rules to cover every possible circumstance an individual or brokerage might face. More regulation is not always the solution to a problem; new regulations can also create new problems.

The REA, Rules and RECA's information services collectively provide a comprehensive set of standards industry professionals are expected to follow in their day-to-day practices. Where ambiguity exists, industry members are reminded they are professionals and must be guided by the spirit and intent of the applicable rule. The obligation of industry members is to seek compliance and act ethically, not to seek methods or practices to "get around" the rules.



An industry professional, therefore, must be vigilant with respect to his or her own behaviour as well as that of colleagues. However, it is inconsistent with the spirit of the REA Rules to use any of these provisions as an instrument of harassment or as a procedural weapon in the absence of a genuine concern respecting the interests of a client, the industry or the public.

"Right Touch" Compliance and Enforcement

RECA's approach to compliance and enforcement of standards will be consistent, proportionate, effective, transparent and timely. Where appropriate, it will focus on providing information, advice and suggestions for change in future behaviour. That said, RECA will utilize the full range and level of sanctions available in its overall strategy to obtain industry compliance and protection of consumers. When it is appropriate to do so, it will encourage consumer complaint resolution through the real estate professionals and brokerages that provided the services giving rise to the complaint.

Professional Support Services

RECA will provide a comprehensive range of information, advisory and support services designed to assist industry professionals in meeting industry standards and providing services to the public. RECA will utilize technology and a variety of communication channels to disseminate information and communicate with industry professionals on a timely basis.

Procedural Fairness

In its contested hearings process, RECA will follow the procedures set out in the REA and adhere to the rules of administrative fairness and natural justice.

While resolution of disciplinary cases through the consent process is advantageous to all parties concerned, RECA will not proceed with a consent agreement on the facts of a case, or the sanction, without ensuring the industry professional understands the case against them, agrees fully with the terms of the consent agreement, has been given time to receive independent legal advice, is proceeding on a voluntary basis and understands the implications of their decision to proceed.



Education, Engagement and Communication

Quality Education

RECA's education programs and courses will provide a quality experience for learners to prepare them for a career in their particular sector of the real estate industry. Development and delivery of pre-licensing and re-licensing courses will be based on RECA's education principles and core values.

Principles

- the primary delivery method of licensing and re-licensing education courses will be through E-Learning
- provide a quality education program any time a learner wants to take a course – Any Time
- provide a quality education program without geographical restrictions for a learner – Any Place
- provide a quality education program at the pace of a learner – Any Pace

Core Values

- RECA education should be available anytime. This value is supported by the flexible delivery of e-learning. Learning is accessible at any time regardless of learners' work, family or personal schedule.
- RECA education should be accessible from anywhere regardless of the remoteness of the geographic location. This value is supported by the flexible delivery of e-learning.

- RECA education should be designed for self-paced learning in order to meet individual learning needs. This value is supported by the flexible delivery of e-learning.
- RECA education should encourage development of the individual's critical thinking and analytical skills.
- RECA education should promote the learner taking responsibility for their learning through supporting a self-directed and timely approach to education.
- RECA education programs and materials should be based on accepted core competencies for the respective industry, where applicable.
- RECA education materials and methods should be current, accurate, and contextually relevant.
- RECA education programs should be designed using a modular approach for greater ease of updating and greater potential for re-purposing of educational resources.
- RECA education should be designed using a content-appropriate mix of media design elements that maximize opportunities for active learning by supporting learner interactivity and engagement.
- RECA education programs should provide relevant knowledge and practice-based information and activities applicable in the respective industry.

- RECA education should provide learner assessment opportunities with immediate feedback based on the key learning constructs and the identified competencies for the respective profession.
- RECA education should embrace prior learning for education equivalencies for appropriate industries with customized programs.

Professional Development

It is ultimately the responsibility of each individual real estate professional to remain current with continuing professional development and to ensure their own competence in the delivery of services to the public.

RECA supports professional development through a variety of activities including publishing information, conducting presentations, and delivering timely and relevant re-licensing courses. The focus of RECA's professional development activities is on industry standards. RECA's mandate of promoting the integrity of the industry and public protection is reflected in its Re-Licensing Education Program (REP). REP course content will be designed to ensure industry professionals have an understanding of current and emerging issues related to legislative, legal, risk reduction, compliance and regulatory matters.



Where practical, RECA will collaborate with and support industry associations, education providers and other organizations that have goals to promote professional development within the real estate industry.

Transparent and Quality Information

RECA will be transparent by providing information and operational updates to its stakeholders. Its communications will be timely, relevant and aligned with the interests of its industry professionals and the public. Transparency and access to information will be balanced with the principles of fairness and the right to privacy of industry professionals.

Engagement with Stakeholders

RECA, through its representatives and various communication channels, will be engaged with industry members and industry stakeholders. It will continually scan the industry and regulatory environment to stay informed and to identify emerging issues. Comments and feedback on issues will be sought from industry members, industry associations and the public through liaisons, advisory committees, discussion papers,

consultations and surveys. Information-based decision-making will be supported by research and information gathered from multiple sources.

Operational Excellence

Operationally, RECA will be an innovative and agile organization focused on its strategic plan, priorities and outcomes. It will adjust its priorities as required to address unforeseen issues in a timely manner. It will be economic, efficient and effective in the delivery of services and in fulfilling its responsibilities as set out in the REA.



Application of the *Real Estate Act* Rules to the Professional

Industry professionals are responsible for knowing and following the REA Rules, and for providing competent services to the public. They are expected to read communications from RECA and keep up to date on changes to the REA, Rules and standards of practice published by RECA.



In the event of a request for information or an investigation into their conduct, industry professionals are required to cooperate fully with any representative of RECA carrying out their duties and responsibilities under the REA. RECA will give an industry professional every reasonable opportunity to provide the information requested.

Lack of cooperation by industry professionals prevents RECA from carrying out its responsibilities. It undermines the public's confidence in the industry's capacity for effective self-regulation. As a result, lack of cooperation is considered a serious matter and the full range of sanctions, including suspension, may be applied. In return, industry professionals will be treated courteously, fairly, impartially and according to the rules of administrative justice. RECA is committed to

transparent professional conduct reviews and proceedings.

Assessment of the conduct of a real estate professional, arising out of a complaint or information received by RECA, will be based on all the facts and circumstances at the time of the conduct in question. This includes the wilfulness and seriousness of the conduct, the impact of the conduct on the complainant and integrity of the industry, and the existence of previous violations. It also includes any mitigating factors, such as an industry professional's willingness to admit misconduct.

What action, if any, taken by RECA in respect to a particular case will depend on a full assessment of all relevant factors. Disciplinary sanctions may or may not be applied. For example, in relatively minor matters, utilization of the Voluntary Broker Resolution process may conclude the matter without RECA taking further action. In some cases, an advisory note outlining the reason the behaviour in question was problematic, with a recommendation to avoid future problems, may be sufficient. In other cases, an apology to the complainant and a change in future behaviour may resolve the matter. Additional training, education or supervision may also be required.

In cases of a more serious nature, the full range and level of disciplinary sanctions will be applied. Again, the circumstances of the individual case will be critical to arriving at an appropriate sanction. While no two cases are identical, previous cases and panel decisions will be a guide in developing an appropriate sanction. These may include an educational component, a fine, costs, suspension or cancellation of an authorization, or some combination of these alternatives. In the most serious cases, where the protection of consumers is paramount, a suspension or cancellation of an authorization will be pursued as early in the process as possible.

An industry professional remains subject to the REA Rules no matter where the individual conducts their professional practice. This applies to the practice of an industry professional entirely in another jurisdiction. If an individual becomes licensed in another jurisdiction and there is an inconsistency or conflict between the rules of conduct of the two jurisdictions in a given situation, the rules of the jurisdiction in which the industry



professional is practising in that matter will normally prevail. However, RECA continues to maintain jurisdiction over the conduct of that industry professional. Therefore, disciplinary proceedings by another governing body may form the basis for conduct proceedings by RECA as well.

In a situation where the practice in question had elements of conduct that occurred in Alberta and another jurisdiction, both RECA and the regulatory body in the other jurisdiction may initiate disciplinary proceedings. The REA Rules would be applied in any conduct proceeding initiated by RECA.



Industry professionals remain subject to the REA Rules if they are trading in real estate or dealing in mortgages on their own behalf. In those cases, the industry professionals must maintain the highest standards of conduct and integrity in all their dealings with the public.

Generally, however, RECA will not be concerned with the purely private or extra-professional activities of an industry professional that do not bring into question the integrity of the industry professional or the real estate industry.





Application of the *Real Estate Act Rules* to the Brokerage

While it is individual licensees who provide services to the public, in the real estate and mortgage brokerage sectors, licensees must be registered with a brokerage and can only offer their services to the public on behalf of that brokerage. While they may have the most direct service relationship with clients, the contract to provide services is between the brokerage and the client.

It is the responsibility of the brokerage to ensure the business of the brokerage is carried out competently and in accordance with the REA, Rules and any other laws that govern trading in real estate or dealing in mortgages.

The broker is responsible for managing the business of the brokerage and supervising the individual industry professionals who are registered with the brokerage.

As a general rule, individual industry professionals are accountable to their clients, their brokerage and to RECA for any actions they engage in that may constitute unprofessional conduct or conduct deserving of sanction within the REA Rules.

The broker is accountable for his or her own conduct in accordance with the principles outlined above. (See "Application of REA Rules to the Professional"). In addition to being accountable for their own actions, RECA may hold the broker accountable for the conduct of associate brokers and associates registered with the brokerage and employees, in certain circumstances.

The circumstances in which a broker will be accountable to RECA are derived from the fundamental obligations of a brokerage to their clients and the

expectations of the public they serve. These include situations where the broker participated in the misconduct, failed to be actively engaged in the management of the brokerage, failed to ensure an adequate level of supervision, was wilfully blind to the conduct, or had knowledge of misconduct and failed to take reasonable steps to prevent the misconduct from occurring. The broker will also be held accountable if, upon becoming aware of the misconduct, failed to take reasonable steps to correct the misconduct or reduce any harm that may have resulted.

Notwithstanding the approach RECA takes with respect to assessing the conduct of the broker, associate brokers and associates, and determining accountability for their individual actions, the brokerage is always accountable for its actions and those of its employees to the public and RECA. The brokerage is ultimately responsible for its business practices and the conduct of its representatives.



Relationship to Industry Associations

It is important there is a clear understanding of RECA's mandate and how it differs from industry associations



Overlap or duplication of services, bylaws or rules of industry associations that conflict with the REA Rules and RECA interpretations, or conflicting advice on the same issues, should be avoided whenever possible. For these reasons, RECA supports ongoing dialogue with industry associations and, where appropriate, entering into agreements that will promote clarity of mandates and elimination of duplication, overlap and conflict.

RECA values its relationships with industry associations and is committed to ongoing communication and consultations. It is important to recognize all industry associations (including real estate boards) are private membership organizations and membership is voluntary.

Depending on their mandates, industry associations are also referred to as "trade associations". Their boards of directors are made up exclusively of association members whose primary role is to serve the interests of their members. They are fiduciaries of the funds they raise from their members and the assets of the association.

While their mandates may vary, the goal of every industry association is to provide services to their members. Membership in a real estate board is voluntary, but members are required to abide by the bylaws of the association and follow the rules related to the use of any services it provides.

Industry associations also provide advocacy and representation on behalf of their members in matters of interest to the membership. This includes promoting the association, promoting the services of their members to the public, and lobbying governments and regulatory bodies such as RECA. The views expressed by an association may or may not reflect the views of RECA, and RECA has no jurisdiction over industry associations.

In some situations, the interests being advanced by an industry association may coincide with the public interest mandate of RECA. For example, most industry associations support education and increased professionalism within their membership. As a result, they may be involved in the delivery of education programs specific to the needs of their members. The goal of a better educated



and professional industry is one shared with RECA and is in the public interest.

As a general rule, when RECA is considering changes to the standards of practice set out in the Rules, it will seek input from industry professionals and the trade associations to gain their perspectives and insights into the changes under consideration. The information and advice received from the associations is valued and taken into account in RECA's decision making process.

As the governing body, RECA's focus is on the public interest. Taking into account all the information and input, it will strive to make decisions it believes will promote the integrity of the industry and protect consumers.

Notwithstanding the differences in the mandates of RECA and the various industry associations, it is in the interest of the industry and the public for the various organizations to communicate with each other and, when it is appropriate, to collaborate

or partner on projects that advance the interests of all stakeholders. For example, RECA supports collaboration on projects initiated by industry associations designed to provide information, resources or courses to advance the expertise and professionalism of industry members.

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