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# Case Summaries

Letters of Reprimand

Administrative Penalties

Hearing Panel Decision



# Case Summaries

Welcome to the Case Summaries monthly magazine - available on the first Monday of every month.

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*.

To review RECA's Publication Guidelines, click [here](#).

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

### Two real estate associates and one real estate broker

- industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act Rules*]
- industry members misrepresented condominium sizes

In each case, the real estate professional misrepresented the registered size of a condominium unit. These cases took place when registered size was a required data field within their local real estate board's database. The real estate professionals were required to obtain the registered condominium unit size from the condominium plan, but they did not. The condominium plan is the only acceptable means through which a real estate professional can obtain a condominium unit's registered size.

### Real estate associate

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

Section 40 of the *Real Estate Act Rules* requires industry members to immediately notify the executive director when certain events occur. The individual in this matter had a situation that required notification. It occurred more than six months before they notified the executive director. The industry member notified the executive director as part of their renewal process. 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. Industry members can submit their notification at any time through the myRECA system.

## Letters of Reprimand

### Real estate associate

- trading while unauthorized [s.17(a) of the *Real Estate Act*]
- the associate did not renew his licence by September 30, 2016 and received an email from his broker on October 1, 2017 that he was no longer authorized to trade in real estate. On January 5, 2017, the associate accepted a request to show a property listed by another industry member but cancelled upon learning he was not authorized. On or before January 5, 2017, the associate maintained a website which showed him as a real estate professional able to trade in real estate.

All industry professionals are required to renew their licence on or before September 30 each year. RECA advises industry professionals to confirm their licensing status using the myRECA system or RECA's public licence search before beginning work on October 1. In this case, the real estate associate did not renew his licence, and became unauthorized to trade in real estate effective October 1. By virtue of maintaining a website that showed him as a real estate professional, he continued to hold himself out as a real estate professional authorized to trade in real estate while he was unauthorized.

# Administrative Penalties

## Judith Shewchuk,

Real estate associate registered with Century 21 A.L.L. Stars Realty Ltd.

- failed to provide competent service [s.41(b) of the *Real Estate Act* Rules]
- Ms. Shewchuk did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)
- \$1,500

## Andrew McGinnis,

Real estate associate registered with Royal LePage Network Realty Corp.

- failed to provide competent service [s.41(b) of the *Real Estate Act* Rules]
- Mr. McGinnis took the measurements from the RPR, and did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)
- \$1,500

The Residential Measurement Standard requires real estate professionals to personally measure, or engage a qualified person to measure, all properties they are listing for sale. In both these matters, the real estate professional did not measure or engage someone to measure the property.

## Keith Hin Kee Mak,

Real estate appraiser

- acting as an appraiser without authorization [s.17(c) of the *Real Estate Act*]
- Mr. Mak did not renew his real estate appraiser licence on or about September 30, 2015. He continued to act as an appraiser between October 1 and October 6, 2016. Mr. Mak did not renew his licence on or about September 30, 2016. Between October 1, 2016 and January 24, 2017 he continued to act as a real estate appraiser.
- \$7,500

## Bryan Alexander Herman,

Real estate associate registered with Twin Oakes Real Estate 1993 Inc. o/a Re/Max House of Real Estate

- trading in real estate without authorization [s.17(a) of the *Real Estate Act*]
- Mr. Herman received reminders that his real estate licence was due to expire on September 30, 2016 but did not renew his licence. Between October 1, 2016 and January 5, 2017, Mr. Herman continued to trade in real estate without proper authorization.
- \$5,000

## Hung Ly,

Real estate associate registered with Impact Real Estate Group Ltd. o/a Residential One Real Estate

- trading in real estate without authorization [s.17(a) of the *Real Estate Act*]
- Mr. Hung received reminders that his real estate licence was due to expire on September 30, 2016 but did not renew his licence. Between October 1, 2016 and January 5, 2017, Mr. Hung continued to trade in real estate without proper authorization.
- \$3,000

## Manzoor Ahmend Chaudhary,

Real estate associate registered with Mountain Park Real Estate Ltd.

- trading in real estate without authorization [s.17(a) of the *Real Estate Act*]
- Mr. Chaudhary failed to renew his real estate licence and while he was unauthorized he showed properties to prospective buyers.
- \$1,500

All industry professionals are required to renew their licence on or before September 30 each year. RECA advises industry professionals to confirm their licensing status using the myRECA system or RECA's public licence search before beginning work on October 1. In these cases, the industry professionals did not renew their licence, and became unauthorized effective October 1. They continued to provide appraisal services or trade in real estate while unauthorized.

## Rajandar Prasad,

Real estate associate registered at all relevant times with Pat Mooney Real Estate and currently registered with Sterling Realty (Alberta) Ltd. o/a Sterling Real Estate

### Issues:

- participating in fraudulent or unlawful activities in connection with the provision of services or in any dealings [s.42(b) of the *Real Estate Act Rules*]
- failing to keep the broker informed of the activities being performed by him on behalf of the brokerage [s.53(d) of the *Real Estate Act Rules*]
- failing to disclose a conflict of interest in the course of providing services to, or in dealings with a client, and/or providing services to a client in a trade in which he had a conflict of interest without obtaining the written and informed consent of the client [s. 41(f) and s.54(3) of the *Real Estate Act Rules*]
- failing to fulfill his fiduciary duties to his client [s.41(d) of the *Real Estate Act Rules*]

### Facts:

#### First Property

- Mr. Prasad listed a property at an inflated price, a price suggested to him by a third party (Mr. TH) not involved in the transaction.
- Mr. Prasad faxed an incomplete, but signed, purchase contract to Mr. TH. The contract did not contain the buyer's details, and Mr. Prasad did not know how Mr. TH was using the contract, facilitating a potential fraud.
- Mr. TH provided the purchase contract to a mortgage specialist. Mr. Prasad never received the deposit referred to in the purchase contract, nor did he receive a final copy of the purchase contract.
- an appraisal of the property determined the purchase price was an inflated property value, and the lender denied the mortgage application
- Mr. Prasad did not make his brokerage aware of this particular purchase contract.
- Mr. Prasad later prepared another purchase contract for the property, representing the buyer and the seller, but failed to disclose the conflict of interest that existed in representing both his wife, who was the seller, and the buyers.
- he did not complete any transaction brokerage forms.
- Mr. Prasad did not submit copies of these purchase contracts to his brokerage

## Second Property

- Mr. TH referred his cousin to Mr. Prasad for a property she was interested in buying.
- Mr. TH signed a gift letter stating he was providing a financial gift to his cousin.
- Mr. Prasad knew that his client, Mr. TH's cousin, represented to the bank that a down payment for a Purchase Contract was gifted funds.
- the client told Mr. Prasad she did not receive the gifted funds from Mr. TH as he had promised her. Instead, she used her line of credit for some of the down payment. When she still did not have enough for the down payment, Mr. Prasad loaned her a portion of the down payment.
- Mr. Prasad did not tell his client she needed to inform the bank the source of the down payment had changed, and that failing to do so could result in a misrepresentation and jeopardize her ability to get financing.
- the bank discovered the misrepresentation and refused to fund the mortgage

## Results:

A Hearing Panel of the Real Estate Council of Alberta accepted an Admission of Conduct Deserving of Sanction from Rajandar Prasad, under s.46 and s.47 of the *Real Estate Act*. The Hearing Panel ordered Mr. Prasad to pay fines totalling \$10,000; costs of \$500, and complete an educational requirement.

With respect to the first property, Mr. Prasad knowingly participated in or was willfully or reckless blind to circumstances that could have suggested mortgage fraud. He facilitated potential fraud by providing Mr. TH with a signed purchase contract, which Mr. TH could fill in with any information he wanted to provide to lenders – whether or not it was truthful or accurate. Furthermore, Mr. Prasad did not keep his broker informed of these activities, nor did he disclose the conflicts of interest that arise when he represented his wife and a potential buyer.

With respect to the second property, Mr. Prasad knew the buyer was misrepresenting the source of her down payment funds to a bank. He failed to fulfill his fiduciary duty to that buyer by not advising her to inform the bank that the source of the down payment had changed. He did not inform her that failing to advise the bank could result in a misrepresentation and jeopardize her ability to get funding.



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### **BOBBI DAWSON**

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### **STAN MILLS**

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### **CONTACT RECA**

Case Summaries are published by the Real Estate Council of Alberta.

Please forward any questions regarding the content of Case Summaries, or any questions regarding licensing or mandatory education, to [info@reca.ca](mailto:info@reca.ca)



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