

March 6, 2018

April 2, 2018

# Case Summaries

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Hearing Panel Decision

Suspension



# 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.

## Letter of Reprimand

### Sheldon Ellsworth,

Real estate associate registered to Hartigan Real Estate Ltd. o/a Coldwell Banker  
Fort McMurray

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

Industry professionals must 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 (5) days after the event in question.

## Administrative Penalty

### John William Acevedo

Real estate associate registered to Noralta Real Estate Inc. o/a Royal LePage Noralta Real Estate

- failed to provide competent service [s.41(b) of the *Real Estate Act* Rules]
- Mr. Acevedo suggested to the purchaser during the drafting of the purchase contract that writing a furnace concern was best as a term instead of a condition
- Mr. Acevedo failed to properly explain the difference between a term and a condition
- the seller did not act upon this term and the seller did not pay to inspect the furnace before or after possession
- the furnace failed shortly after taking possession causing the buyer to pay to replace the furnace
- this is a failure to provide competent service
- \$1,500

Part of providing competent service to clients is explaining the various options available to deal with specific issues a consumer encounters during a trade in real estate. The explanation of each option must include the advantages and disadvantages and how local circumstances might affect the different options. In this case, the industry professional failed to properly explain the difference between a term and a condition. This resulted in no action on the term by the seller, and the subsequent major expense incurred by the buyer shortly after taking possession.

## Hearing Panel Decision

### Kymerly Izzard,

Mortgage broker at Mortgagestogo.ca Inc. o/a mortgagestogo.ca

#### Issues:

- industry members must produce and permit inspection of books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of, in relation to or connected with the industry member when directed by the executive director for the purpose of periodic business inspections

#### Facts:

- the conduct in question occurred from June 2, 2016 to October 13, 2016
- Ms. Izzard was registered as a mortgage broker at all relevant times with mortgagestogo.ca
- RECA scheduled a practice review and provided Ms. Izzard with a list of documents needed to perform a routine practice review, including general bank account records
- on behalf of her father, Ms. Izzard requested an explanation of the need for bank statements
- RECA Trust Assurance & Practice Review Officer informed Ms. Izzard that the bank statements were part of the books and records of the brokerage and they are a standard part of such a review
- Ms. Izzard and her father maintained that the bank statements had never been requested before and asked that an executive call and explain which authority allows this request
- RECA sent Ms. Izzard an email chain from 2011 in which these statements had been requested and provided for a previous practice review
- RECA Trust Assurance and Practice Review Officer scheduled the practice review for August 26, and once again attached the list of documents RECA required Ms. Izzard to produce, including general banking records

## Hearing Panel Decision

- at the practice review, when the Trust Assurance and Practice Review Officer requested the bank statements, they were again not provided
- RECA sent the matter to Conduct Review, who sent a Notification of Professional Conduct Review to Ms. Izzard, and once again requested the production of the bank records by Sept. 20, 2016
- Ms. Izzard did not provide the requested documents by the deadline. Conduct sent a new letter on September 21 stating the executive director is prepared to proceed with a suspension, and a \$25,000 fine for failure to cooperate. This letter gave October 12 as a new deadline to produce the bank records.
- RECA received the documents and completed the practice review on October 13
- RECA issued an Administrative Penalty, which Ms. Izzard appealed to a Hearing Panel

### Outcome:

- the Panel found Ms. Izzard had contravened Section 74(2) of the *Real Estate Act* by not providing the requested banking records to the Trust Assurance Officer and Practice Review Officer, and that such contravention is conduct deserving sanction
- the Panel confirmed the sanction in the original Administrative Penalty:
  - a fine of \$10,000 for the breach of section 74(2) of the *Act*;
  - costs of \$12,605

## [Simon Golom - Real Estate Licence Suspended](#)

On March 9, 2018, the Real Estate Council of Alberta (RECA) suspended the real estate licence of Simon Golom. RECA suspended Mr. Golom for refusing to cooperate with a person conducting an investigation.

As a result of this suspension, Mr. Golom may not trade in real estate in Alberta. His suspension will continue until the executive director is satisfied he has cooperated with the investigation.

Mr. Golom was most recently registered as a real estate associate with Top 5 Real Estate Lethbridge Ltd.

## **2017-2018 Council Members**

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### **KRISTA BOLTON**

Appointed from the public

### **BONNY CLARKE, CHAIR-ELECT**

Appointed from non-AREA industry members

### **BOBBI DAWSON**

Appointed from the boards outside of Calgary and Edmonton

### **AMINA DEIAB**

Appointed from the public

### **RAMEY DEMIAN**

Appointed from the industrial, commercial and investment real estate sector

### **BILL KIRK**

Appointed from the Calgary Real Estate Board

### **BRIAN KLINGSPON, CHAIR**

Appointed from the REALTORS® Association of Edmonton

### **PHIL MCDOWELL**

Appointed from the mortgage brokerage sector

### **STAN MILLS**

Appointed from the boards outside of Calgary and Edmonton

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Appointed from residential real estate industry members

### **ROBERT TELFORD**

Appointed from the real estate appraisal sector

### **CHRISTINE ZWOZDESKY, PAST-CHAIR**

Appointed from the property management sector

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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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