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Case Summaries

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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

Three real estate associates, one real estate associate broker, one real estate broker

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- the industry members did not take steps to ensure the properties were measured using the Residential Measurement Standard (RMS) or failed to represent the property according the Residential Measurement Standard (RMS)

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 these cases, the real estate professionals failed to accurately represent the RMS sizes of properties for different reasons. In each case, the issue wasn't the specific size they represented in the listing, but rather how they arrived at that size. The errors in these reprimands included:

- measuring the exterior of the building in a duplex, which should be measured paint to paint
- representing the size of a property using the blueprints of a new build, despite the fact that the property was complete and accessible for measurement

Real estate associate

- 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 member misrepresented the size of properties

The real estate professional measured the property manually using the RMS; however, on the listings, the professional listed the properties using the builder plan sizes and previous measurements for the properties. If making a size representation in a listing, real estate professionals must use the RMS size.

Administrative Penalties

John Leslie Malick,

Real estate associate registered to Re/Max Real Estate (Central)

- 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 member misrepresented the property size
- \$1,500

Mr. Malick intentionally misrepresented the size of a property. Despite having the property professionally measured according to the RMS, Mr. Malick listed the property size incorrectly because he believed his seller would be disadvantaged because the RMS size was smaller than similar units. Real estate professionals are required to accurately represent the size of properties they list using the RMS.

Tushar Bhutani,

Real estate associate registered to Excellence Real Estate Edmonton Ltd.
o/a Re/Max Excellence

- 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*]
- the industry member included intentionally misleading information when he advertised that a property had a double garage when it did not
- \$3,000

Mr. Bhutani intentionally included misleading information in a listing. He did so to generate more interest in the property, but consumers and industry professionals rely on the accuracy of representation in a property listing. On every listing, industry members are expected to include accurate information.

Administrative Penalties

Shelley Kohut,

Real estate associate broker registered to Aca Realty Inc. o/a Re/Max Aca Realty

- 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*]
- the industry member had an amendment to an Exclusive Representation Agreement back dated to the effective date, not the date the agreement was actually signed
- \$1,500

Contracts are legal documents. Providing false information on a legal document is unprofessional and unlawful. Ms. Kohut provided false information on a legal document when she back-dated a signature instead of dating it correctly. When drafting and signing agreements, industry members must ensure they accurately reflect the situation, proper dates, and details.

Kellie Michelle Rodriguez,

Real estate broker registered to Olsson Property Management Group Ltd.

- failed to ensure the business of the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and Bylaws [section 51(1)(d) of the *Real Estate Act Rules*]
- \$1,500

Ms. Rodriguez' brokerage failed to file their annual accounting on time for two years in a row. After the first time this occurred, as the broker, Ms. Rodriguez should have taken action to amend and update brokerage policies and procedures to ensure the issue didn't continue. She did not, and the brokerage accounting was received late by RECA for a third time. Brokers are required to have policies and procedures in place to ensure the brokerage operates in accordance with the legislation.

Administrative Penalties

Mohan Maharaj,

Real estate broker registered to Aspire Group Realty Inc.

- failed to ensure the business of the brokerage was carried out competently and in accordance with the Act, Regulations, Rules and Bylaws [section 51(1)(d) of the *Real Estate Act Rules*]
- \$1,500

Mr. Maharaj's brokerage collected and held security deposits on behalf of clients. These funds should have been held in a trust account, but were instead held in the brokerage operating account. Brokers must be familiar with laws surrounding trust funds, which are a key component in protecting consumers. Brokers must understand and be compliant with all legislation applicable to trust funds, including holding and management.

Mohan Maharaj,

Real estate broker registered to Aspire Group Realty Inc.

- failed to report to Council on the operation of accounts in which money was held in trust [section 90 of the *Real Estate Act Rules*]
- \$1,500

When Mr. Maharaj filed his fiscal year end brokerage accounting, he indicated his brokerage did not hold trust funds during the last fiscal year. In fact, the brokerage did hold security deposits and rent in trust, and Mr. Maharaj did not understand that funds collected in the course of providing property management services requires reporting. Brokerages must file all appropriate brokerage accounting with RECA, and must ensure their filings are accurate and truthful.

Administrative Penalties

Shelley Kohut,

Real estate associate broker registered to Aca Realty Inc. o/a Re/Max Aca Realty

- industry members must not delegate, assign, request, direct or in any way allow an unlicensed or unregistered assistant to perform tasks that must only be performed by an industry member. [s.46(2) of the *Real Estate Act Rules*]
- the industry member directed an unlicensed assistant to perform tasks that can only be performed by an industry member
- \$1,500

The industry member directed her assistant to show an Exclusive Seller Representation agreement to her clients. Ms. Kohut had her assistant explain the document to the sellers and the sellers signed it, without Ms. Kohut present. Industry members are expected to know the activities that require a licence, and not to ask, allow or request that unlicensed individuals perform any of these tasks.

Kellie Michelle Rodriguez,

Real estate broker registered to Olsson Property Management Group Ltd.

- failed to file brokerage accounting within three months of the fiscal year end [s. 91(4) of the *Real Estate Act Rules*].
- the brokerage year end report was due on December 31, 2016, and not filed until March 31, 2017
- \$1,500

A brokerage's accounting must be filed with the Council not later than 3 months after the end of the brokerage's fiscal year. In this matter, Ms. Rodriguez filed the forms more than three months after the end of the brokerage's fiscal year.

Lifetime Withdrawal

Lori Lynn Critch - Lifetime Withdrawal From Industry

On July 6, 2017, Lori Lynn Critch, previously a real estate associate in Fort McMurray, applied to permanently withdraw from industry membership.

At the time of her application, Ms. Critch was the subject of conduct proceedings under the *Real Estate Act*. The issues under investigation were whether Ms. Critch stole money from her brokerage.

At the time of Ms. Critch's withdrawal from industry, there had been no disciplinary hearing, admissions, or findings of fact.

The Real Estate Council of Alberta approved Ms. Critch's application to withdraw, and this results in a voluntary lifetime prohibition from industry membership; conduct proceedings are now discontinued.

Lifetime Withdrawal

Philip Fook Shing Tong - Lifetime Withdrawal From Industry

On July 6, 2017, Philip Fook Shing Tong, previously a real estate broker in Calgary, applied to permanently withdraw from industry membership.

At the time of his application, Mr. Tong was the subject of conduct proceedings under the *Real Estate Act*. The issues under investigation were whether Mr. Tong failed to:

- be actively engaged in the management of his brokerage
- ensure the business of the brokerage was carried out competently
- ensure adequate level of supervision for licensees and employees of the brokerage
- ensure that bank records were maintained for all monies held in trust
- ensure the terms of trust governing the use of money are in writing and agreed to by all parties
- at the time of Mr. Tong's withdrawal from industry, there had been no disciplinary hearing, admissions, or findings of fact.

The Real Estate Council of Alberta approved Mr. Tong's application to withdraw, and this results in a voluntary lifetime prohibition from industry membership; conduct proceedings are now discontinued.

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