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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.

The *Real Estate Act* Rules set out the processes for the executive director to:

- determine whether a learner complied with the Education Code of Conduct for Learners
- provide a prospective industry professional with an opinion as to whether or not they are suitable for licensing before they enroll in and begin a RECA education program
- review licence applications to determine if the applicant is of good character, that the issuance of a licence is in the public interest, and does not harm the integrity of the industry

Results from recent files related to these processes are summarized below.

Suitability Review – Mr. M.G.

Mr. M.G. asked the Executive Director to review his suitability to become authorized as a real estate associate. The Executive Director determined that if Mr. M.G. were to apply for a real estate associate licence, he would not provide you with a licence and registration. The evidence obtained indicates Mr. M.G. is not of good character and reputation, and that granting him a licence would not be in the public interest and would harm the integrity of the real estate profession. In particular, the Executive Director found Mr. M.G. made statements to RECA about his criminal proceedings, statements that were not consistent with the facts. Mr. M.G. falsely accused the victim of making up the complaint they filed against him.

The Executive Director concluded that if Mr. M.G. applied for a licence and registration at this time, he would be refused for the following reasons:

- provided false and misleading information during suitability review process
- failed to acknowledge, take responsibility or show remorse for his actions during this review

Suitability Review – Mr. J.L.

Mr. J.L. asked the Executive Director to review his suitability to become authorized as a real estate associate. The Executive Director found that Mr. J.L. was unsuitable in that he has a criminal record that spans over 20 years, including a direct affiliation with a criminal organization. Although Mr. J.L. has shown remorse and acknowledged the wrongness of his criminal activity, there has not been enough passage of time to demonstrate a genuine change in character.

The Executive Director concluded that if Mr. J.L. applied for a licence and registration at this time, he would be refused for the following reasons:

- his extensive history would impact the integrity of the profession without a sufficient amount of time demonstrating a change in character
- it has been five years since his last conviction, and less than two years since he completed parole for his last conviction

Letters of Reprimand

Three real estate associates and one real estate broker

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

Section 40 of the *Real Estate Act Rules* requires industry members to immediately notify the executive director when certain events occur. The individuals in these matters had situations requiring notification occur ten days or more 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. Industry members can submit their notification at any time through the myRECA system.

Real estate associate

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- the industry member failed to exercise reasonable care and skill in getting permission prior to access a property

The industry member was representing a buyer in the purchase of a property. In the purchase contract, the seller agreed to do certain repairs prior to possession. The buyer’s industry member went to check on the state of repairs three times without getting permission before accessing the property. The existence of a lock box does not make it acceptable for industry professionals to access a property without the seller’s consent, which is typically requested and received from the seller’s representative.

Letters of Reprimand

Real estate associate

- industry member must deliver to the client a true copy of the service agreement and any amendment or addition, immediately upon its signature [s.43(3) of the *Real Estate Act Rules*]
- industry member failed to immediately provide an executed copy of the Exclusive Buyers Representation Agreement to the clients
- the agreement was signed in October 2016, and the clients received a copy in December 2016

Section 43(3) of the *Real Estate Act Rules* says industry members must deliver a copy of a signed service agreement to clients immediately after it is signed. In this case, the industry member delivered the copy of the signed service agreements to their client two months after it was signed.

Real estate associate

- 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) *Real Estate Act Rules*]
- the industry member failed to take the time to complete a complete review of the events that occurred, and provided inaccurate information multiple times when responding to RECA's request for information

Crucial to RECA's ability to regulate is its ability to rely on the cooperation of licensees in professional conduct reviews. Because this industry member did not carefully reviewing the events in question, he provided misleading information to RECA. While the industry member did not intentionally provide misleading information, it increased the time and resources RECA needed to address the matter. Prior to responding to a RECA request for information, RECA expects industry members to review their files carefully in order to provide accurate responses.

Letters of Reprimand

Real estate associate

- 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) *Real Estate Act* Rules]
- industry member failed to demonstrate professionalism when posting comments about a brokerage dispute on a social media platform

The industry professional posted about a commission dispute their brokerage was involved in with another brokerage on a public social media platform. The post included specific names of the brokerage, individuals involved, and property address. This fails to meet industry standards and obligations regarding personal information and professionalism.

Administrative Penalties

Allan Joseph Reid,

Real estate broker registered with S.S. Reid Realty 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 June 30, 2016, but was not filed until November 4, 2016
- \$1,500

Brock Adam Tokar,

Real estate broker registered with 2% Realty Edge

- 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 June 30, 2016, but was not filed until November 4, 2016
- \$1,500

Joseph Leonard Bouchard,

Real estate broker registered with Realty Executives Cold Lake Real Estate

- 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 March 31, 2017, but was not filed until April 10, 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. The brokers in these matters filed the forms more than three months after the end of the brokerage's fiscal year.

Administrative Penalties

Natasha Eden,

Real estate associate registered with Urban-Realty.ca

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

Peter Robert Ng,

Real estate associate broker registered with CIR Realty

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

Gordon Joseph Boddez,

Real estate associate registered with Re/Max Real Estate

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- Mr. Boddez did not take steps to ensure the property was measured using 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 these cases, the real estate professionals did not measure or engage someone to measure the property in accordance with the RMS.

Kristine Semrau,

Real estate broker registered with 2008863 Alberta Ltd. o/a The Alberta Collection

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]
- \$1,000.00

Section 40 of the *Real Estate Act Rules* requires industry members to immediately notify the executive director when certain events occur. In this matter, the individual had a situation requiring notification occur more than three months before she 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. Industry members can submit their notification at any time through the myRECA system.

Deimira Paa Baidoo,

Mortgage associate

- deal as a mortgage associate without authorization [s.17(b) of the *Real Estate Act*]
- Mr. Baidoo failed to renew his licence on or before September 30, 2016. While he was not authorized to deal in mortgages, Mr. Baidoo took a mortgage application.
- \$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 this case, the industry professional did not renew his licence, and became unauthorized effective October 1. He continued to deal as a mortgage associate while unauthorized.

Administrative Penalties

Kurtis John Bain,

Real estate broker registered with Concordia Real Estate and Property Management Ltd.

- failed to enter into a written service agreement with the client [s.43(1) of the *Real Estate Act Rules*]
- entered into a tenancy agreement on behalf of a client with no written service agreement in place with that client
- \$1,000

Real estate professionals working with clients in residential real estate and property management are required to have written service agreements with their clients. The written service agreement needs to be entered into as soon as the client relationship is established. In this case, the real estate professional did not have a written service agreement with his client prior to entering into a tenancy agreement on his client's behalf.

Philip Andrew Caswell,

Real estate associate registered with Concordia Real Estate and Property Management Ltd. at the time of the investigation

- 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 assured tenants that a management agreement would be finalized. The tenants signed a tenancy agreement, but no management agreement was finalized.
- \$1,500

The real estate signed an exclusive Seller Representation Agreement with the seller, and later agreed to market the property for rent if it did not sell. The associate entered into a tenancy agreement with tenants for the property, despite the owner indicating she wasn't sure she would engage Mr. Caswell's brokerage to manage her property. The real estate professional should not have made representations about finalization of a management agreement to a tenant knowing the owner was unsure she would enter into such an agreement.

Erick Sez Tsun Yip,

Real estate associate registered with Elite Ownership Group Ltd. o/a Re/Max Elite

- industry members must fulfill their fiduciary obligations to their client [s.41(d) of the *Real Estate Act* Rules]
- Mr. Yip's buyer clients identified a grading issue during the home inspection, and relied on him to take the appropriate steps to ensure the grading work was complete. Mr. Yip failed to do so resulting in the buyers having to complete the grading at their expense.

Real estate professionals need to protect their clients' interests throughout the transaction. In this case, Mr. Yip failed to take steps outside of contacting the seller's associate, who was unable to confirm the grading was completed. He discovered on possession day that the grading had not been completed, and the buyer had to complete it at his own expense. In order to protect his buyer clients, Mr. Yip should not have stopped inquiring about the grading until he received a satisfactory answer.

Jeffrey Robert Harding,

Real estate associate formerly registered with Sutton Group-Canwest, currently registered with Engel & Volkers Calgary

- industry members must not directly or indirectly, provide an inducement unless the inducement is provided by or on behalf of the brokerage with which the industry member 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].
- industry member agreed to pay their client's legal expenses. The inducement was not approved by the broker.
- \$1,500

In this case, the industry professional offered to pay the legal fees of his clients when his commission was released. This inducement was neither approved by nor provided on behalf of his brokerage. Industry members must not directly or indirectly provide an inducement unless it is provided by the brokerage with which they are registered.

Jameel Dasouki,

Real estate associate registered with Vision Realty Inc. o/a Century 21 Bravo Realty

Issues:

- industry members must provide competent service [s.41(b) of the *Real Estate Act Rules*]
- industry members must fulfill their fiduciary obligations [s.41(d) of the *Real Estate Act Rules*]

Facts:

- Mr. H. and his father purchased a property and tried to sell it for several years
- At some point before May 2012, the market value of the property dropped to less than the outstanding mortgage
- Mr. H. and his wife approached Mr. Dasouki to sell the property
- Mr. Dasouki advised them that since the market value of the property was less than the mortgage value, they should look at a rent-to-own arrangement
- Mr. Dasouki had them execute a number of agency relationship documents, as well as a standard AREA Residential Listing Agreement
- There were some contradictions in these documents. Specifically, some of them acknowledge that Mr. H and his wife would be clients, not customers, of the brokerage. Others stated that they were customers, not clients. The customer documents purported to limit the brokerage's duties
- Approximately one week to 10 days after the listing, another industry member, Mr. S.L., contacted Mr. Dasouki about the listing
- Mr. S. L. indicated he had a client who was interested in the Property on a rent-to-own basis
- Sometime during the week of May 21, 2012, Mr. H., his wife and Mr. Dasouki met with S.L.
- Mr. S. L. presented the details of his proposed deal and he made a number of important representations about his client
- Mr. S. L. did not do a credit or background check on his client, and apart from looking at one T4 later provided by her, he knew nothing of his client's income
- Mr. S. L. did not verify that she owned the property she claimed, and nothing had been signed to confirm that he would be representing her in the sale of any property

Hearing Panel Decision

Result:

The Hearing Panel found Mr. Dasouki:

- used contradictory and inconsistent agency relationship forms
- presented a rent-to-own arrangement that was documented as a sale
- failed to advise his clients that the offer included no security deposit, or to make the deal conditional on obtaining a security deposit to be held in trust for them before possession
- failed to verify material representations made by another industry member

A Hearing Panel of the Real Estate Council of Alberta found that Jameel Dasouki breached section 41(b) of the *Real Estate Act* Rules resulting in conduct deserving of sanction. The Hearing Panel did not find that Mr. Dasouki breached section 41(d) of the *Real Estate Act* Rules.

The Panel ordered Mr. Dasouki to pay fines totalling \$2,500, costs of \$3,000, and complete an educational requirement.

Suspensions

Philip Fook-Shing Tong and Ruth Chan Ho Yee Ng - Real Estate Licences Suspended

On May 29, 2017, the Real Estate Council of Alberta (RECA) suspended Philip Fook-Shing Tong, a real estate broker, and Ruth Chan Yo Yee Ng, a real estate associate broker. Both individuals were registered with Classic Property Management & Realty Ltd in Calgary. RECA determined it is in the public interest to temporarily suspend Mr. Tong and Ms. Ng. The suspensions will continue until the conclusion of RECA disciplinary proceedings against them.

Allegations against Mr. Tong include:

- failure to be actively engaged in the management of the brokerage
- failure to ensure the business of the brokerage is carried out competently and in accordance with the legislation
- failure to ensure there is an adequate level of supervision for associate brokers or associates, and employees who perform duties on behalf of the brokerage;
- failure to ensure that for all monies held in trust, the bank records are maintained in accordance with the legislation, and the law as it relates to trustees
- when receiving money in trust in respect of a deal in real estate, failure to ensure that the terms of the trust governing the use of money are in writing and agreed to by the industry member and all other parties.

Allegations against Ms. Ng include:

- failure to provide competent service
- failure to fulfill her fiduciary obligations to her clients
- participation in fraudulent or unlawful activities in connection with the provision of services or in any dealings

As a result of these suspensions, Philip Fook-Shing Tong and Ruth Chan Ho Yee Ng may not trade in real estate in Alberta.

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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



Suite 350, 4954 Richard Road SW,
Calgary, AB T3E 6L1
Phone (403) 228-2954 - Toll-free 1-888-
425-2754
Fax (403) 228-3065
www.reca.ca