

October 3, 2017  
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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

### Two real estate associates

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

Industry members are required to immediately notify the executive director when certain events occur. The individuals in these cases had situations requiring notification occur, and they waited a significant period of time before notifying 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 associate did not take steps to ensure the property was measured using the Residential Measurement Standard (RMS)

The Residential Measurement Standard (RMS) requires real estate professionals to personally measure, or engage a qualified person to measure, all properties they are listing for sale. The associate did not have access to the property before posting the listing, and stated in the listing the measurements in the listing were not according to the RMS, which was the correct way to list the property. However, once the associate had access to the property, they did not take any steps to measure it according to the RMS. There are times when an industry professional is unable to access a property to measure it. If access becomes available at some point, the industry member must measure it according to the RMS, and update the size in the listing in the marketing information.

## Letters of Reprimand

### Real estate associate

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- the real estate associate failed to obtain the signature of one of the owners before placing the property on the market

### Real estate associate

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- failed to have your clients sign a listing amendment

### Real estate associate

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- industry member negotiated a reduced rent, but failed to document this change in writing
- industry member completed a move out inspection report with the tenant. The report failed to have required statements as prescribed by the *Residential Tenancies Ministerial Regulation*

Industry members must provide competent service, and competent service requires proper paperwork and documentation. Industry professionals need to ensure they present the required paperwork to consumers and ensure they obtain consumers' signatures. Industry members have a responsibility to document all changes to agreements and contracts as it protects both the public and the industry professional.

## Letters of Reprimand

### Mortgage broker

- failed to ensure the business of the brokerage was carried out competently and in accordance with the Act, Bylaws, and these Rules contrary to section 67(1)(e) of the *Real Estate Act* Rules.
- the industry member's brokerage errors and omissions insurance expired on July 1, 2017 and the brokerage continued to operate without the required insurance
- during the time without E&O insurance, the mortgage brokerage did not handle any mortgage files

Mortgage brokers must ensure the business of the brokerage is carried out competently and in accordance with the *Real Estate Act*, the Bylaws and Rules. Mortgage brokerages are required to carry errors and omissions insurance. In this case, the brokerage's errors and omissions insurance expired. It's the broker's duty to ensure the brokerage has the required errors and omissions insurance at all times.

### Real estate associate

- industry member failed to follow the terms of trust in a management agreement contrary to section 25(1)(d) of the *Real Estate Act*

Real estate professionals must ensure that all funds held in trust are disbursed according to the agreed terms of the trust. In this case, money was not to be disbursed to an individual until the board approved the individual's work. The associate paid the individual without the approval of the board.

## Letters of Reprimand

### Real estate broker

- the brokerage failed to fund a trust shortage as soon as it determined the amount of the shortage (Section 88, of the *Real Estate Act Rules*)
- RECA reviewed brokerage accounting reports for the fiscal year end. The report shows multiple instances in which trust funds were accidentally deposited and transferred into the general operating account of the brokerage, therefore creating a trust fund shortfall. The brokerage made all of the required corrections, but did not do so as soon as the amount of shortage was determined

Brokers are required to review their reconciliations within 30 days of receipt of the prior month's bank statement, and if they determine there is a trust shortage, they must fund it. In this case, the brokerage did not correct the trust shortages as soon as the shortages were determined.

## Administrative Penalties

### Sharon Beverley Schneider,

Real estate broker registered to Tillyard Management Inc.

- trading in real estate without authorization [s.17(a) of the *Real Estate Act* Rules]
- Ms. Schneider allowed her registration and the brokerage registration to lapse for over nine months. While unauthorized, Ms. Schneider continued to manage properties on behalf of owners, including holding trust funds
- \$5,000

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 broker continued to manage properties on behalf of owners, including the holding of funds in trust while unauthorized. It is an industry member's responsibility to ensure they are licensed.

### Jason Christopher Ferguson,

Mortgage associate registered to Verico IMortgage Solutions

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act* Rules]
- \$1,000

Industry members must immediately notify, in writing, the executive director when certain events occur. 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. In this case, RECA received notification almost two months after the incident occurred.

## Administrative Penalties

### Gerry John MacDonald,

Mortgage broker registered to CMS Real Estate Ltd.

- failed to ensure the business of the brokerage was carried out competently and in accordance with the Act, the Bylaws, and these Rules, contrary to section 67(1)(e) of the *Real Estate Act Rules*
- Mr. MacDonald allowed the brokerage's errors and omissions insurance to expire. The brokerage had no errors and omissions insurance for a month and a half, and continued to handle mortgage files
- \$1,500

Mortgage brokers must ensure the business of the brokerage is carried out competently and in accordance with the *Real Estate Act*, the Bylaws and Rules. Mortgage brokerages are required to carry errors and omissions insurance. In this case, the brokerage's errors and omissions insurance expired, but the brokerage continued to handle mortgage files. It's the broker's duty to ensure the brokerage has the required errors and omissions insurance when carrying on business as a mortgage brokerage conducting business in order to protect their clients and the brokerage.

### Carmen Estelle Davison,

Real estate associate registered to Real Estate Professionals Inc. previously registered with Re/Max Realty Professionals

- failed to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- Ms. Davison failed to submit representation agreement to her brokerage
- Ms. Davison failed to document in writing that she was representing both the seller and the buyer
- Ms. Davison failed to get a service agreement signed
- \$1,500

Industry members must provide competent service, and competent service requires proper paperwork and documentation. Industry professionals need to ensure they present the required paperwork to consumers, obtain consumers' signatures, and submit the paperwork to their brokerage.



## Administrative Penalties

### Ali Omar Shaben,

Real estate broker registered to Sable Realty Corp.

- 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 was due on July 31, 2017 and not filed until August 25, 2017
- \$1,500

### Harvey Pyra,

Real estate broker registered to Real Estate Trade Dot Com Inc.

- 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 was due on September 30, 2017 and not filed until October 13, 2017
- \$1,500

A brokerage must file their accounting with Council no later than 3 months after the end of the brokerage's fiscal year. The brokers in these cases filed the forms after the deadline despite RECA sending numerous email reminders of the deadline for filing the forms.

## Administrative Penalties

### Ronald Armeneau,

Real estate broker registered to Armeneau Holdings Ltd. o/a Royal LePage  
Redwillo Realty

- engaged in conduct that undermines public confidence in the industry [s.42(g) of the *Real Estate Act* Rules]
- Mr. Armeneau removed a welding deck from a property with the intention to use parts from it without permission from the rightful owner
- \$1,500

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. In this case, the broker had the means to contact the rightful owner of the welding deck in question, but instead, removed it from the property for his own use. The broker failed to take adequate steps to identify the owner of the welding deck before removing it from the property for his own use.

## Mark Charles Holtom - Mortgage Licence Suspended

On September 27, 2017, the Real Estate Council of Alberta (RECA) suspended Mark Charles Holtom, a mortgage associate. Mark Holtom was most recently registered with Dominion Lending Centres Mortgage Mentors in Edmonton.

RECA determined it is in the public interest to temporarily suspend Mr. Holtom. The suspension will continue until the conclusion of RECA disciplinary proceedings against him.

Allegations against Mr. Holtom include that he engaged in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute.

As a result of this suspension, Mark Charles Holtom may not deal in mortgages as a mortgage associate in Alberta.

## Rajandar Prasad - Real Estate Licence Suspended

On October 17, 2017, the Real Estate Council of Alberta (RECA) suspended the real estate licence of Rajandar Prasad. RECA suspended Mr. Prasad for failing to comply with a Hearing Panel order from a March, 20, 2017 Hearing Panel Decision.

As a result of this suspension, Rajandar Prasad may not trade in real estate in Alberta.

Mr. Prasad was most recently registered as a real estate associate with Sterling Real Estate in Edmonton.

## Jared Colby Jenkins, Lifetime Withdrawal from Industry

On October 18, 2017, Jared Colby Jenkins, previously a mortgage associate in Calgary, applied to permanently withdraw from industry membership.

At the time of his application, Mr. Jenkins was the subject of conduct proceedings under the *Real Estate Act*. The issues under investigation pertained to allegations that Mr. Jenkins was involved in a mortgage fraud scheme; Mr. Jenkins did not respond to RECA's requests for information as part of the investigation process.

The matter was referred to a Hearing Panel where it was alleged that Mr. Jenkins breached the *Real Estate Act* by failing to cooperate with a RECA investigation. Prior to the scheduled Hearing, Mr. Jenkins applied to RECA for a lifetime withdrawal from the industry.

The Real Estate Council of Alberta approved Mr. Jenkins' application to withdraw, and this results in a voluntary lifetime prohibition from industry membership; conduct proceedings are now discontinued. At the time of Mr. Jenkins' withdrawal from industry, there had been no disciplinary hearing, admissions, or findings of fact.

## Ruth Chan Ng, Lifetime Withdrawal from Industry

On October 18, 2017, Ruth Chan Ng, previously a real estate associate broker in Calgary, applied to permanently withdraw from industry membership.

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

- be actively engaged in the management of the brokerage
- ensure the business of the brokerage was carried out competently and in accordance with the legislation
- 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 Ms. Ng's withdrawal from industry, there had been no disciplinary hearing, admissions, or findings of fact.

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

## 2017-2018 Council Members

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Appointed from the public

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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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