

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 0000258CM
Process: A Hearing under Part 3 of the *Real Estate Act*
Industry Member: Zafar Bahadar
Class of License: Real Estate Associate
Registration: Currently registered with 4th Street Holdings Ltd.
operating as Re/Max Real Estate (Central)
Document: NOTICE OF HEARING

TO: Zafar Bahadar

A hearing is set to review allegations about your conduct. Read this entire document to see what you must do.

Hearing Information

Date: April 23-27, 2018
Time: 9:30 a.m.
Where: The Hearing Room, 2nd Floor
202, 1506 11 Ave SW, Calgary, Alberta
Hearing Panel: Ramey Demian, Chair,
Andrew Huntley
Graham Lock
(Alternates: Brian Klingspon)

It is alleged that your conduct is deserving of sanction for breaching sections of the *Act* or Rules. Here are the details:

1. In or around August 2007, you made representations or carried on conduct that was reckless or intentional and that misleads or deceives any person or is

likely to do so contrary to section 42(a) of the Real Estate Act Rules, particulars of which include:

- a) You were contacted by SK, the complainant ("Complainant"), to assist SS and KS, who wished to purchase a residential property. The Complainant was an acquaintance of the KS & SS, but was not related to them.
- b) SS & KS decided they wished to purchase a property [{"Property"}]. However, they did not qualify for mortgage financing on the Property without a co-signer.
- c) You advised the Complainant that if she co-signed the SS & KS real estate purchase contract and their mortgage loan, she would be able to cancel all obligations arising from said mortgage loan after a period of three months simply by removing her name from the mortgage. Your advice was incorrect.
- d) The Complainant relied on your advice and agreed to act as the co-signer. You then brokered a real estate purchase contract ("Contract") dated August 13, 2007, in which all of the S's and the Complainant were named as buyers. You also assisted in arranging a mortgage loan ("Mortgage") in which the Complainant and the S's were named as borrowers.
- e) On or around October 10, 2007, the Complainant requested that you cancel her obligations under the Mortgage by removing her name from the Mortgage in accordance with your earlier advice. You took steps to remove her name from the title of the Property but did not remove her name from the Mortgage.
- f) In or around 2009, the Complainant contacted you again with the same request. At this time, you advised her that her obligations under the Mortgage could no longer be cancelled due to a change in the law.
- g) The S's defaulted on the Mortgage in 2010 and the Mortgage lender initiated foreclosure proceedings on the Property. The Property was

then sold to a third party and the Mortgage lender was granted a deficiency judgment in the amount of \$106,782.66 against the Complainant and the S's.

2. In or around August 2007, you failed to act honestly contrary to s. 41(a) of the Real Estate Act rules or, alternatively, failed to provide competent service contrary to s. 41(b) of the Real Estate Act Rules by communicating false or incorrect information to a mortgage broker, particulars of which include:
 - a) On August 13, 2007, you brokered the Contract whereby the S's were to purchase the Property for \$371,000.
 - b) You then contacted CS, a mortgage associate registered to [{"brokerage"}], to arrange for financing for the purchase of the Property.
 - c) You did one or more of the following:
 - i. You informed CS that the Complainant intended to reside in the Property as her primary residence.
 - ii. You sent CS an inaccurate MLS listing that indicated that the Property had been listed for \$399,900 when the S's made their purchase offer, when in fact it had been listed for \$384,900.
 - iii. You provided CS with an inaccurate purchase contract showing that the Property was purchased for \$396,000 when it had been purchased for \$371,000.
 - iv. You knew or were willfully blind to the fact that one or more of (i), (ii) or (iii) above was not true.
 - v. Alternatively to (iv) above, you failed to take reasonable steps to confirm the accuracy of one or more of (i), (ii) or (iii).
3. In or around August 2007, you failed to provide competent service by failing to understand who your clients were, contrary to section 41(b) of the Real Estate Act Rules, particulars of which include:

- a) The Complainant provided assistance to the S's because they were new to Canada and came from the Complainant's country of origin. However, the Complainant was not related to the S's and had met them for the first time in spring 2007. The Complainant was not prepared to take on significant financial or legal obligations or risks to assist them.
 - b) You failed to develop an understanding of the relationship between the Complainant and the S's. You assumed that the Complainant was the sister of the S's.
 - c) You failed to develop an understanding of the limited extent to which the Complainant was prepared to assist the S's.
4. In or around August of 2007, you failed to provide to your broker in a timely manner the original handwritten Residential Real Estate Purchase Contract 1112007, contrary to section 53(c) of the Real Estate Act Rules.

Why You Should Attend the Hearing

The hearing is your opportunity to respond to the allegations and state your side of the case in front of the Panel.

Learn About the Hearing Process

Please read these guides on the RECA website

- *Hearing and Appeal Practice and Procedures Guidelines and*
- *Information for Unrepresented Industry Members*

They are under the *Industry* tab under the heading *Publications and Resources > Guides > Guides to Disciplinary Proceedings*.

What You Should Bring to the Hearing

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

What Will Happen If You Don't Attend

If you do not attend the Panel may proceed to make a decision without you.

What Will Happen At the Hearing

After hearing all evidence and argument the Panel will decide whether the Executive Director has proven any of the breaches. If no breach is proven you will face no sanction.

If the Panel finds a breach is proven the Panel may do one or more of the things listed in **section 43** of the *Real Estate Act*:

- Cancel or suspend your authorization
- Order you to pay a fine for each breach
- Order you to pay the cost of the investigation and the hearing
- Order you to complete an education course

Submitting Written Arguments After the Hearing

You can provide written arguments at the end of the hearing or after the end of the hearing

You must provide these to the **Hearings Administrator** and **Counsel for the Executive Director** (contact information below) **no later than 15 days after the end of the Hearing.**

Contact the Hearing Administrator if you need more time.

You Can Get Legal Advice

You may get legal advice and may be represented by legal counsel at the hearing.

If you do not have a representative please read *Information for Unrepresented Industry Members*, which may be found on RECA's website under the *Industry* tab

under the heading *Publications and Resources > Guides > Guides to Disciplinary Proceedings*.

If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, you must advise the Hearings Administrator **who you object to and why within 14 days** of receiving this Notice.

If you do not object to the Panel within 14 days, this Panel will conduct the hearing.

Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Executive Director and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on March 20, 2018.

Charles Stevenson,

For Bob Myroniuk, Executive Director
of the Real Estate Council of Alberta

Contact Information

Hearing Administrator: CT Email: cthompson@reca.ca Fax: 403 228 3065 Direct: 403 685 7908 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta, T3E 6L1	Lawyer for the Executive Director c/o VE Email: vedwards@reca.ca Fax: 403 228 3065 Direct: 403 685 7944 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta, T3E 6L1
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