

August 8, 2018
September 4, 2018

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

Priya Anand Mishra,

Real estate broker registered with AM PM Properties Inc.

- an industry member 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 professional [section 46(2) of the *Real Estate Act* Rules]
- Ms. Mishra directed an unlicensed person to perform tasks that can only be performed by a licensed industry professional
- on September 25, 2015, a Property Management Agreement was signed by an unlicensed employee on behalf of the brokerage
- the unlicensed individual showed properties to prospective tenants
- on October 14, 2015 a Lease Agreement was signed by the unlicensed individual on behalf of the brokerage

Unlicensed persons who provide services that require a licence put consumers at serious risk. Unlicensed persons do not have the required education or errors and omissions insurance, and consumers working with unlicensed persons do not receive protection under the Real Estate Assurance Fund. Brokerages must ensure that their employees requiring a licence, have one.

David Lem,

Real estate broker registered with 1853147 Alberta Ltd. o/a Engel & Volkers Calgary

- failed to complete bank reconciliations within 30 days of the date of the prior month's bank statement [section 86(1) of the *Real Estate Act* Rules]
- on May 31, 2018, a RECA Practice Review discovered that bank reconciliations for November 2017 to March 2018 were prepared on May 31, 2018. This was a failure to complete bank reconciliations within the time frame required by the legislation.

Brokerages must complete bank reconciliations on a monthly basis. Brokers must use this critical tool to effectively manage the brokerage trust accounts. This ensures the brokerage is meeting its trust obligations and it helps to identify potential trust shortages or other irregularities that may require further investigation.

Administrative Penalty

Swaraj Kumar Sharma,

Mortgage broker registered with Desi Mortgage House

- failed to report to Council a Declaration Respecting Absence of Trust Transactions indicating the brokerage had not received or held money in trust in the course of business during the fiscal year [section 92(1) of the *Real Estate Act Rules*]
- the brokerage accounting forms were due July 3, 2018
- RECA sent Mr. Sharma multiple email reminders to file the appropriate forms by July 3, 2018
- RECA received the required accounting forms on July 31, 2018
- \$1,500

Brokers must take reasonable steps to ensure RECA receives the required brokerage accounting forms within three months from the brokerage fiscal year end. This includes making sure internal and external sources like accountants have been given sufficient time to complete the forms and their schedule allows them to meet the deadline.

Hearing Panel Decision

Jason Christopher Ferguson,

Mortgage associate registered with VPMG IMortgage Solutions Inc. o/a Verico IMortgage Solutions

Issues:

- industry members must notify the executive director immediately of criminal proceedings brought against them

Facts:

- proceedings pursuant to the Criminal Code were commenced against Mr. Ferguson on May 3, 2017
- Mr. Ferguson's broker at the time testified that she informed Mr. Ferguson on June 14, 2017 of the requirement to notify the executive director and that it must be done immediately
- Mr. Ferguson did not notify the executive director in writing until June 29, 2017, 57 days following the charges being placed
- RECA determined Mr. Ferguson's behaviour was conduct deserving of sanction
- RECA served Mr. Ferguson with an Administrative Penalty for \$1,000
- Mr. Ferguson appealed the administrative penalty to a Hearing Panel
- the Panel convened on June 21, 2018

Outcome:

The Panel determined that Mr. Ferguson failed to notify the executive director in a manner consistent with the requirement of the *Real Estate Act Rules*. The Panel noted that a lack of knowledge of the industry rules is not sufficient to avoid a finding of a contravention of the Rules. The industry member has the onus to learn and follow the Rules.

- the Panel upheld the original administrative penalty of \$1,000
- the Panel ordered costs of \$4,348.12

Hearing Panel Decision

Michael Eurchuk

Real estate associate broker registered with Polaris Realty (1995) LTD.
o/a Maxwell Polaris

Issues:

- 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 [section 42(g) of the *Real Estate Act* Rules]

Facts:

- on March 14, 2016 Mr. Eurchuk agreed to present the Real Estate Update 2016 course in accordance with a lesson plan confirmed with RECA's Education Services Manager at that time
- on March 15, 2016 Mr. Eurchuk signed a Memorandum of Understanding to be an instructor for the Real Estate Update 2016 course
- Mr. Eurchuk deviated from the lesson plan in hours taught and sessions covered, omitting Session 5 completely and not covering the Education Code of Conduct for Learners as required
- Mr. Eurchuk had students sign an attendance sheet that wasn't reflective of hours actually spent in class
- Mr. Eurchuk agreed to an Admission of Conduct of Deserving of Sanction under s.46 of the *Real Estate Act*

Outcome:

The Panel determined that Mr. Eurchuk engaged in conduct that undermines public confidence in the industry, harms the integrity of the industry or brings the industry into disrepute.

The Panel ordered:

- a fine of \$6,500
- a one month suspension of Mr. Eurchuk's authorization to trade in real estate (starting August 7, 2018)
- Mr. Eurchuk to complete the education course: *Real Estate Act*, Rules and Regulations within a period of six months
- costs of \$500

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Case Summaries are published by the Real Estate Council of Alberta.

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