

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 008064  
Process: Section 39 of the *Real Estate Act*  
Industry Member: Ayaz Ali Bhanji  
Authorization: Real Estate Broker  
Registration: Excellence Real Estate Edmonton Ltd. O/A Re/Max  
Excellence  
Document: LETTER OF REPRIMAND

TO: Ayaz Ali Bhanji

The Executive Director of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **25(1)(b) of the *Real Estate Act*** and this is conduct deserving of sanction.

*25(1) An industry member who is required by the rules to keep and operate a trust account shall*

*(b) deposit money received in trust in respect of a dealing or trade in the business of the industry member within the time prescribed by the regulations, or within any period agreed to in writing by the parties to the dealing or trade, in an interest bearing account that is*

*Real Estate (Ministerial) Regulations: 22 Subject to and for the purposes of section 25(1) of the Act, money received in trust must be deposited within*

*(a) 3 business days of receipt, or  
(b) in the case of money received in trust for an offer to purchase, 3 business days of the acceptance of the offer to purchase.*

**Particulars of the contravention(s):**

1. On March 25, 2018 your brokerage Re/Max Excellence received a deposit for a pending trade in real estate; the brokerage failed to deposit these funds into your trust account contrary to section 25(1)(b) of the *Real Estate Act*:
  - a) On March 24, 2018 a residential purchase contract was accepted by a seller represented by your brokerage. That purchase contract appointed your brokerage as the trustee for the deposit money.
  - b) On March 25, 2018 your brokerage received the deposit cheque from the buyer for the purchase. This cheque was not deposited into the brokerage trust account.

- c) On March 30, 2018 the buyer chose not to waive the conditions of the purchase contract.
- d) On April 6, 2018 the buyer's associate called Re/Max Excellence to arrange return of the deposit. Re/Max Excellence informed the buyer's associate they had no paperwork on the transaction and had no record of a deposit for the transaction.
- e) On April 6, 2018 the brokerage discovered that staff had not handled the deposit cheque properly and it ended up in an associate's mailbox by mistake.
- f) On April 6, 2018 the original deposit was returned to the buyers
- g) You commenced an internal investigation of events to reveal internal mistakes were made. This resulted in speaking to all the parties involved and new brokerage policies and procedures being implemented.

As a broker, you are responsible for the operation of the brokerage and supervision of all of the staff/employees in the brokerage. Brokerages must ensure they meet their legislative obligations around trust funds. Consumers must have trust in brokerages to handle deposit monies properly and deposit them in a trust account in a timely fashion.

The Executive Director considered the following aggravating and mitigating factors:

### *Mitigating Factors*

- You have taken a proactive approach of strengthening policies and procedures to prevent this issue from happening again.
- You have taken responsibility for your actions

The Executive Director will issue a more severe sanction for further similar instances of this conduct.

### **Appeal**

You have the right to appeal this Letter of Reprimand to a Hearing Panel under **section 40.1(2) of the *Real Estate Act***. Please refer to Guides on RECA's website for more information on the appeal process.

In an appeal you will be given a full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel in relation to the contraventions alleged.

Your written notice of appeal must be received by the Executive Director **within 30 days** of you receiving this Letter of Reprimand. If you have any questions regarding particulars or the appeal process, please contact:

Name: SSC, Professional Conduct Review Officer  
Phone: 403.228.2954; Toll Free: 1.888.425.2754  
Fax: 403.228.3065  
Address: Real Estate Council of Alberta  
Suite 202, 1506 11 Avenue SW  
Calgary, Alberta, T3C 0M9

Issued at Calgary, Alberta, on September 17, 2018.

*Charles Stevenson, for*  
Bob Myroniuk, Executive Director  
of the Real Estate Council of Alberta