

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 008347
Process: Section 39 & 83 of the *Real Estate Act*
Industry Member: Michael Robert Holmes
Authorization: Real Estate Broker
Registration: Larlyn Property Management Limited
Document: ADMINISTRATIVE PENALTY
Penalty: \$1,500.00

Payment

This Penalty must be paid **within 30 days** of the date this Notice was issued.

If you fail to pay the Penalty the Executive Director may commence collection under Part 6 of the *Real Estate Act* and may suspend your authorization under section 38.1 of the Rules.

If you pay the Penalty

- You will have satisfied the Administrative Penalty and no further proceedings under Part 6 will be taken against you.
- You cannot be charged under the *Real Estate Act* with an offence for the contravention(s) in this Administrative Penalty.

TO: Michael Robert Holmes

The Executive Director of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **section 91(4) of the *Real Estate Act Rules*** and this is conduct deserving of sanction.

Particulars of the contravention(s):

1. You failed to file your brokerage accounting within 3 months of your fiscal year end contrary to section 91(4) of the *Real Estate Act Rules*:
 - a) Your brokerage year end was March 31, 2018.
 - b) You were sent six emails to the brokerage email address and your personal email address reminding you that the required accounting forms must be filed by July 3, 2018. Those emails were sent April 2, 2018, May 1, 2018, June 1, 2018, June 15, 2018, June 22, 2018, June 29, 2018.
 - c) You submitted Form 2 on June 26, 2018.

- d) You requested an extension to submit the remaining year end reports on July 5, 2018. The request was declined July 5, 2018.
- e) Each email reminder gave clear instructions on what forms were required, a link to RECA's website that explained how to access the forms, and a warning that failure to complete the required forms by July 3, 2018 could result in an administrative penalty.
- f) August 14, 2018, RECA received your outstanding required forms.

The Executive Director considered the following aggravating and mitigating factors:

Aggravating Factors

- You were reminded that the required reports had to be completed and those reminders made clear the potential consequences for failing to do so.

Mitigating Factors

- You took responsibility for your actions

Appeal

You have the right to appeal this Administrative Penalty to a Hearing Panel. See **section 83.1 of the *Real Estate Act*** for what you must do to appeal.

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 comply with section 83.1 and must be received by the Executive Director **within 30 days** of you receiving this Administrative Penalty.

If you appeal, payment of the Penalty will not be required until an order to pay a penalty is issued by the Hearing Panel.

If you have any questions regarding particulars or the appeal process, please contact:

Name: CS, 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 October 5, 2018.

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