

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 008402
Process: Section 39 & 83 of the *Real Estate Act*
Industry Member: Robin Lloyd Smashnuk
Authorization: Real Estate Associate
Registration: Excellence Real Estate Edmonton Ltd. o/a Re/Max
Excellence
Document: ADMINISTRATIVE PENALTY
Penalty: \$1,500

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: Robin Lloyd Smashnuk

The Executive Director of the Real Estate Council of Alberta (RECA) has determined there is sufficient evidence you have contravened **Section 42(a) of the *Real Estate Act Rules*** and this is conduct deserving of sanction.

Rule 42 – *Industry members must not:*

(a) make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so;

Particulars of the contravention:

1. In or around April 2018 you made a representation that was intentionally misleading, contrary to section 42(a) of the *Real Estate Act* Rules.
 - a) On or about April 24, 2018 you completed the Individual Identification Information Record as part of the requirements of Canada's Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations.
 - b) Section A.1 of the Record required you to ascertain your client's identity by comparing him to the photo on his driver's licence. It clearly states your client must be physically present for the comparison. Your client was not present when you completed the document. This was an intentional misrepresentation.
 - c) You first met your client on May 7, 2018 but dated the Record as meeting him on April 24, 2018.

Brokers and brokerages rely on their representatives to carry on the business of the brokerage in a timely and competent manner and in accordance with other legislation affecting trading in real estate. In this instance, you misrepresented your activities to appear to be in compliance when, in fact, you had not complied.

The Executive Director considered the following aggravating and mitigating factors:

Aggravating Factors

- You have been an industry member for more than 10 years and should know the importance of completing FINTRAC documents accurately.

Mitigating Factors

- You admitted the conduct.
- You indicated that you will take steps in the future to ensure this does not happen again.
- You have no discipline history with RECA.

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: RM, 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 November 2, 2018.

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

cc: Ayaz Bhanji, Excellence Real Estate Edmonton Ltd. o/a Re/Max Excellence