

November 13, 2018

December 12, 2018

Case Summaries

Letters of Reprimand

Administrative Penalties

Hearing Panel Decisions

Suspensions

Case Summaries

Welcome to the Case Summaries monthly magazine.

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

Click on names to view the full decision

[Donald Joseph Burton.](#)

Real estate broker registered with Strathallen Property Management Inc.

- failure to immediately notify, in writing, the executive director [s.32 of the *Real Estate Act Rules*]
- Strathallen Property Management Inc. made changes to its shareholders, directors, and office structure on January 1, 2018, January 22, 2018, and May 15, 2018
- RECA was notified on August 10, 2018

[Bradley Alan Currie.](#)

Real estate broker registered with Residential Leasing Group Inc.

- failure to immediately notify, in writing, the executive director [s.32 of the *Real Estate Act Rules*]
- Residential Leasing Group Inc. had a change in shareholders on March 29, 2018
- RECA was notified on August 14, 2018

[William Mark Smith.](#)

Mortgage broker registered with 0952130 B.C. Ltd.

o/a Dominion Lending Centres- A Better Way

- failure to immediately notify, in writing, the executive director [s.32 of the *Real Estate Act Rules*]
- Dominion Lending Centres – A Better Way had a change in shareholders on March 15, 2018
- RECA was notified on August 10, 2018

[David William Franklin.](#)

Mortgage broker registered with CMLS Financial Ltd o/a CMLS Financial

- failure to immediately notify, in writing, the executive director [s.32 of the *Real Estate Act Rules*]
- CMLS Financial Ltd. had a change in directors on February 28, 2018
- RECA was notified on August 20, 2018

Letters of Reprimand

Michele Caley

Real estate broker registered with Vertica Resident Services Inc.
o/a Vertica Resident Services

- failure to immediately notify, in writing, the executive director [s.32 of the *Real Estate Act Rules*]
- Vertica Resident Services Inc. had a change in officers on April 16, 2018
- RECA was notified on August 22, 2018

Tanya MacPherson

Real estate broker registered with Streetwise Property Management Inc.

- failure to immediately notify, in writing, the executive director [s.32 of the *Real Estate Act Rules*]
- Streetwise Property Management Inc. had a change in shareholders on December 28, 2016 and July 27, 2018
- RECA was notified on August 30, 2018

Brokerages must immediately notify the executive director, in writing, when certain events occur. RECA defines immediately as “without delay,” and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five (5) days after the event in question. In these cases, the brokerages waited months to notify RECA.

Kenneth Richter

Real estate associate registered with 4th Street Holdings Ltd.
o/a Re/Max Real Estate (Central)

- industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act Rules*]
- Mr. Richter represented a seller, who was the builder.
- Mr. Richter informed a buyer representative that an appliance store offers a 40% discount to this builder when in fact the discount was 20%.

Industry members must not mislead clients in anyway. The associate should have confirmed the discount before informing the buyer representative.

Administrative Penalties

John Stobbe,

Real estate broker registered with Century 21 Platinum Realty Inc.
o/a Century 21 Platinum Realty

- industry member failed to follow the terms of trust in a management agreement contrary to section 25(1)(d) of the *Real Estate Act*
- a Management Agreement was in place for a property
- the contract was terminated February 17, 2017
- outstanding fees were owed to Mr. Stobbe's brokerage for the payment of utilities and management fees
- the security deposit from the tenant was used to cover the owed fees , contrary to the terms of trust governing the use of the security deposit
- \$1,500

Brokers must ensure that all funds held in trust are disbursed according to the agreed terms of trust. Brokers must abide by the agreed terms of trust and any obligations set out in the *Residential Tenancies Act* governing a security deposit. In this case, the security deposit was used to cover the fees owed to the brokerage. This disbursement was not in accordance with the terms of the trust governing the use of the security deposit.

Administrative Penalties

Trevor James Zuk,

Real estate associate registered with North Star Realty Corporation
o/a Realty Executives North Star

- industry members must fulfill their fiduciary obligations to their client [s.41(d) of the *Real Estate Act* Rules]
- Mr. Zuk showed a client's property to potential buyers who expressed interest in the property
- the buyers asked MR. Zuk for some comparables to help them make an offer
- the sellers instructed Mr. Zuk to tell the potential buyers they would need to make a decision on whether they wanted to make an offer on the property within 24 hours
- Mr. Zuk told the potential buyers they would need to make a decision in 24 hours
- Mr. Zuk delayed providing the potential buyers with comparables
- Mr. Zuk felt the sellers were pressuring the potential buyers into purchasing the property in an unrealistic time frame for first time buyers
- the potential buyers never made an offer on the property
- \$3,000

Industry professionals must put the interests of their clients above their own interests and the interests of other parties. In this case, the industry professional failed to act in his client's best interest, and should have provided comparables in the appropriate time frame.

Administrative Penalties

Ravinder Singh Basi

Real estate associate previously registered to R & D Realty Inc.
o/a Maxwell Canyon Creek, currently unregistered

- industry members must not directly or indirectly, provide an inducement unless the inducement is provided by and on behalf of the brokerage with which the real estate broker, associate broker or associate is registered, details of the inducement are provided in writing and the broker has provided written approval [s.54(2) of the *Real Estate Act* Rules]
- Mr. Basi received an offer from a buyer that was lower than what his clients wanted
- Mr. Basi offered to lower his commission \$3,000 or to pay his sellers legal fees in this transaction
- the sellers chose the legal fees
- Mr. Basi failed to get approval from his brokerage for this inducement
- Mr. Basi later paid the seller's legal fees
- Mr. Basi failed to put the terms of the inducement in writing, which lead to confusion with his clients, who contacted Mr. Basi requesting the outstanding payment they claimed he owed them
- \$1,500

To offer an inducement, industry professionals must receive written approval of the inducement from their broker and give the details of the inducement to the party in writing. The broker's approval may be on a case-by-case basis or by a written brokerage policy. The policy should specify what types and the value of inducements the associate broker or associate can offer on behalf of the brokerage. In this case, the industry professional did not get the required approval from their brokerage and did not provide the inducement in writing to their clients.

Moses Ling,

Real estate associate registered with Signature Realty Inc.
o/a Century 21 Signature Realty

- industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act* Rules]
- Mr. Ling represented his clients for two properties
- Mr. Ling informed his clients of the requirement to represent properties according to Residential Measurement Standard
- the clients agreed to pay for a company to measure the properties
- on June 14, 2018, Mr. Ling advertised both properties using measurements taken from blueprints
- on June 18, 2018, Mr. Ling had the properties measured following RMS guidelines
- both properties measured smaller using the RMS than the measurements from the blueprints
- Mr. Ling amended errors on the listings related to features of the unit, after the client brought them to his attention
- Mr. Ling failed to update the advertised RMS measurements
- \$2,500

Industry professionals have a responsibility to ensure the information in their listings is accurate. In this case, the industry professional was required to measure the property according to the RMS before advertising the property size. Also, once the RMS measurements came back on both properties the associate should have updated the listings immediately to reflect the accurate, RMS size.

Hearing Panel Decision

Richard James Horb,

Real estate associate registered with Re/Max Real Estate (Edmonton) Ltd.
o/a Re/Max Real Estate

Issues:

- industry members must act honestly [s. 41(a) of the *Real Estate Act Rules*]
- industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act Rules*]
- every written service agreement shall provide that any amendment or addition to the terms of the agreement shall be in writing and signed by the relevant parties [s.43(2) of the *Real Estate Act Rules*]

Facts:

- Mr. Horb made representations or carried on conduct that was reckless or intentional and that mislead or deceived persons or was likely to do so
- Mr. Horb promised his clients that he would not charge them a commission. He also stated he could not change a service agreement to reflect that promise. He made the representations to induce the client to sign the service agreement, which required the client to pay a commission. Mr. Horb never honoured the waived commission
- Mr. Horb told a client that he could not refund overpaid commissions as those funds had been garnished by the CRA, which was false
- Mr. Horb had failed to have an amendment written or signed
- Mr. Horb amended a listing agreement verbally but failed to write this amendment or have it signed by him and his client

Outcome:

The Hearing Panel determined that Mr. Horb engaged in conduct deserving of sanction. The Panel ordered the following:

1. The Hearing Panel ordered Mr. Horb to pay a fine of:
 - a) \$7,000 for the breach of section 42(a) of the Rules
 - b) \$2,000 for the breach of Rule 41(a) of the Rules
 - c) \$1,000 for the breach of Rule 43(2)(a) of the Rules
2. a one month suspension of Mr. Horb's authorization to trade in real estate for breach of section 42(a) of the Rules (starting November 23, 2018)
3. Mr. Horb to complete the educational course: Unit 12 of the *Fundamentals of Real Estate – Real Estate Associates Program* within a six month period
4. costs of \$1,000

Hearing Panel Decision

Sameer Kalia

Real estate associate registered at all material times with Century 21 A.L.L. Stars Realty Ltd., and most recently registered with Lampas Holdings Ltd. o/a Re/Max River City

NOTE: The Hearing Panel has stayed their decision on sanction pending the outcome of an Appeal.

Issues:

- industry members must fulfill their fiduciary obligations to their clients [s.41(d) of the *Real Estate Act Rules*]
- industry members must disclose to their clients, at the earliest practical opportunity, any conflict of interest they may have in the course of providing services to, or in their dealings with, a client [s.41(f) of the *Real Estate Act Rules*]
- industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act Rules*]
- a real estate associate broker and associate must provide to the broker in a timely manner all original documentation and copies of original documents provided to the parties or maintained by other brokerages [s.53(c) of the *Real Estate Act Rules*]
- an industry member trading in real estate on the industry member's own behalf, either directly or indirectly, must disclose in writing [s.62(1) of the *Real Estate Act Rules*]

Facts:

- Mr. Kalia did not clearly state to a potential buyer of a property in which Mr. Kalia had an interest
 - that he was not the seller's agent for the purchase;
 - that he had an interest in the Property; and
 - that he was not acting as the buyer's agent.
- In fact, Mr. Kalia established an agency relationship with the buyer:
 - he told the buyer he had the Property "under contract";
 - he showed the buyer the Property;
 - he assisted the buyer in coming up with an offer price; and
 - he drew up the initial offer.
- the buyer was led to believe that Mr. Kalia was the listing agent, was uninterested in the Property, and that Mr. Kalia was acting as the buyer's representative. The buyer entered a purchase contract for the Property based on these understandings

Hearing Panel Decision

- Mr. Kalia did not submit documentation to his brokerage regarding the this transaction.
- Mr. Kalia did not provide to the buyer, in writing:
 - his interest in the transaction, specifically that he was the owner and director of a corporation to which the Property had been conditionally sold;
 - that he was an industry member authorized under the Act;
 - the name of his brokerage;
 - knowledge that he had with regards to the Property being in a 100 year flood zone.
- Mr. Kalia did not disclose in writing to the actual listing real estate professional:
 - that he had an interest in the Property;
 - that he was an authorized industry member; and
 - the name of his brokerage.

Outcome:

The Hearing Panel determined that Mr. Kalia engaged in conduct deserving of sanction. The Panel ordered the following:

1. fines in the total amount of \$20,000
2. a three month suspension of Mr. Kalia's authorization to trade in real estate
3. Mr. Kalia to complete the following courses from the *Fundamentals of Real Estate – Real Estate Associates Program*
 - a) Unit 4 (Consumer Relationships)
 - b) Unit 12 (Ethics, Professionalism and Risk Reduction)
4. costs of \$13,294

Suspension



Joe Youssif Ammar

Currently unregistered real estate associate

On November 22, 2018, the Real Estate Council of Alberta (RECA) suspended Joe Youssif Ammar, a currently unregistered real estate associate in the Edmonton area.

RECA determined it is in the public interest to temporarily suspend Mr. Ammar. The suspension will continue until the conclusion of RECA disciplinary proceedings against him.

Mr. Ammar was most recently a real estate associate for Challenge Realty Ltd. o/a Maxwell Challenge Realty in Edmonton.



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

Please forward any questions regarding the content of Case Summaries, or any questions regarding licensing or mandatory education, to info@reca.ca