

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 003609
Process: A Hearing under Part 3 of the *Real Estate Act*
Industry Member: Sanjeev Malik
Class of License: Currently not licensed, previously licensed as a real estate associate
Registration: Currently not registered, previously registered with Discover Real Estate Ltd.; previously registered with Five Star Realty Ltd. o/a Five Star Realty; previously registered with Nuway Real Estate Ltd.

Document: NOTICE OF HEARING

TO: Sanjeev Malik

A hearing is set to review allegations about your conduct. Read this entire document to see what you must do.

Hearing Information

Date: March 18 – 22, 2019
Time: 9:30 a.m.
Location: The Nakiska Room, 2nd Floor
1506 11 Avenue SW, Calgary, Alberta
Hearing Panel: Christine Zwozdesky – Chair, Panel Member (Council Member)
Angela Kolody – Panel Member (Industry Member)
Rita Aggarwala – Decision Writer, Panel Member (Public Member)
(Alternates: Bobbi Dawson, Charlie Ponde, Christopher Williams)

Counsel for the Panel: Ricki Johnston

It is alleged that your conduct is deserving of sanction for breaching sections of the Act or Rules. Here are the details:

- a) From February 2005 to December 2006, you participated in fraudulent or unlawful activities in connection with a real estate transaction or in the provision of services or any dealings, contrary to section 7(c) of the *Code of Conduct* in the *Real Estate Act Rules* and Section 42(b) of the *Real Estate Act Rules* (then in effect):
- i. You participated in the creation of a company, 1173951 Alberta Ltd. ("1173951"), with your business partner and future real estate broker, Suneet Kumar Sharma ("Sharma"), and RS, for the purpose of purchasing and reselling properties;
 - ii. You had an indirect interest in the purchase by [{"company1"}] of an 8-unit condominium building at [{"address1"}],
 - iii. You recruited or participated in the recruitment of straw buyers, UA, to purchase Unit #3, and SH to purchase Unit #4, at the [{"town"}] Property at highly inflated prices;
 - iv. You drafted the purchase contracts for Units #3 and #4 at the [{"town"}] Property and forged the signatures and initials of UA and SH on the contracts;
 - v. You directed SH to obtain employment and tax information to provide as financial support for a mortgage application;
 - vi. You drafted a fraudulent purchase contract for the residence of UA and HS at [{"address2"}] to provide to the lender with the following misrepresentations:
 1. The buyers did not exist;

2. You forged the signature and initials of UA (SH did not initial or sign);
 3. You used the name of a non-existent real estate associate and the name of another real estate associate, unaware of the transaction, as buyer and seller representatives.
- vii. You drafted a Waiver of Conditions for the [{"address2"}] contract, which was not seen by or signed by UA or SH and displays signatures of the non-existent buyers;
- viii. You directed UA and SH to a specific lawyer to complete documentation related to the purchase of Units #3 and #4, despite knowing that:
1. The parties were recruited as straw buyers and were signing documents that contained false information and would be used to give the impression that the real estate transaction was legit;
 2. UA and SH did not pay deposits to the lawyer, as required by the purchase contracts;
 3. Cash to close funds on both units were paid directly to the lawyer by [{"company1"}];
- ix. You were aware that [{"company1"}] did not at any point own the property or register as owner on title for the units at the [{"town"}] Property, as they were transferred directly to the straw buyers on the same date as the closing of the purchase by [{"company1"}];

- x. You were aware that UA and SH signed documentation with the real estate lawyer to direct that financing proceeds be paid to the original owner of the [{"town"}] Property for the purchase by [{"company1"}];
- xi. You were aware that monies left over from financing would be paid to the principals of [{"company1"}], a portion of which (\$27,371.22) was deposited into your joint bank account with your wife, RM;
- xii. You provided monthly cheques to UA and SH, either written by your numbered company, 1173951 Alberta Ltd. ("1173951"), or by [{"company1"}], to cover the mortgage payments for Units #3 and #4;
- xiii. You recruited, or participated in the recruitment, of a new buyer, [{"company2"}], for Units #3 and #4 at the [{"town"}] Property;
- xiv. You told the director and owner of [{"company2"}], MY, of a great investment in the [{"town"}] Property, offering all 8 units for a small deposit of \$40,000 and assumable mortgages, representing that the rental income would cover the monthly mortgage payments;
- xv. You did not advise MY of the recent purchase and sale transactions associated with Units #3 and #4 at the [{"town"}] Property or the purchase price paid to the original owner;
- xvi. You drafted 8 separate contracts for MY to purchase the units at the [{"town"}] Property, acting as witness to his signature;
- xvii. You forged the signatures of UA and SH on the purchase contracts for the sale of Units #3 and #4 to MY;
- xviii. You directed UA and SH to a specific lawyer to sign documentation to transfer Units #3 and #4 to MY.

- b) Between January 2005 and February 2005, you used confidential information obtained from a client for personal gain or for a purpose other than that for which it was obtained, contrary to section 2(f) of the Code of Conduct, *Real Estate Act Rules* (then in effect):
- i. You provided confidential information of UA and SH to Sharma to run a credit check on them through Equifax to determine their eligibility as straw buyers;
- c) Between February 2005 and December 2005, you did not fulfill your fiduciary duties to your client by failing to disclose your direct or indirect interest in a real estate transaction as a result of a business or family association with a potential buyer or seller, contrary to section 2(l) of the *Code of Conduct* in the *Real Estate Act Rules* (then in effect):
- i. You had a direct or indirect financial interest in [{"company1"}] through your wife, RM, who was a director and shareholder;
 - ii. You were a director and shareholder of 1173951, which was providing mortgage payments to UA and SH for Units #3 and #4 at the [{"town"}] Property;
 - iii. You did not disclose the conflict of interest in writing of your direct or indirect financial interest in the [{"town"}] Property to UA or SH;
- d) Between January 2006 and December 2006, you did not disclose to your client, at the earliest practical opportunity, any conflict of interest you had in

the course of providing services to, or in your dealings with, a client, contrary to section 41(f) of the *Real Estate Act Rules* (then in effect):

- i. You did not disclose the conflict of interest in writing to MY, the subsequent purchaser of Units #3 and #4, of your direct or indirect financial interest in the [{"town"}] Property.
- e) Between February 2005 and December 2006, you made representations or carried on conduct that was reckless or intentional and that misled or deceived any person, or was likely to do so, by being a party to an agreement or conspiracy to conceal any latent defects or pertinent facts in relation to a mortgage, contrary to section 4(c) of the Code of Conduct, *Real Estate Act Rules* (then in effect):
- i. You provided incorrect or misleading information to Sharma to include in a mortgage application for UA and SH, such as current address, place of employment, sale of current residence, existing mortgages in their names, and their intentions to live in Unit #3 and #4 at the [{"town"}] Property;
 - ii. You drafted or obtained a false employment letter for UA and provided it to Sharma as part of her supporting documentation for a mortgage application in order to inflate her income;
 - iii. You provided a notice of assessment for SH to Sharma, to include as part of SH's mortgage application, knowing that it contained false income that did not correspond to his T1 tax document;

- iv. You provided an altered void cheque to Sharma as part of SH's supporting documentation for a mortgage in order to conceal his address from the lender;

- f) Between February 2005 and December 2005, you participated in the creation of a contract that you knew or ought to have known was false or misleading, contrary to section 4(d) of the Code of Conduct, *Real Estate Act Rules* (then in effect):
 - i. You intentionally did not list yourself as buyer's representative on the contracts for the purchase of Unit #3 by UA and Unit #4 by SH in order to conceal your participation in the real estate transaction;

- g) Between January 2006 and December 2006, you did not provide competent service, contrary to Section 41(b) of the *Real Estate Act Rules* (then in effect):
 - i. You did not enter into a service agreement with MY;

 - ii. You did not list yourself as buyer's representative on the purchase contracts for the sale of Units #3 and #4 to MY;

- h) You failed to cooperate with a person conducting an investigation, as per s. 38(4)(a) of the *Real Estate Act*:
 - i. You were not honest with the investigator regarding your conduct throughout the investigation.

Why You Should Attend the Hearing

The hearing is your opportunity to respond to the allegations and state your side of the case in front of the Panel.

Learn About the Hearing Process

Please read these guides on the RECA website:

- *Hearing and Appeal Practice and Procedures Guideline and*
- *Guide for How to Represent Yourself at a Real Estate Council of Alberta Hearing or Appeal Panel*

Both are found on the RECA Website: RECA>Complaints & Discipline>Hearing Information and Procedures

What You Should Bring to the Hearing

Bring any witnesses and evidence you want the Panel to consider, with you to the hearing.

What Will Happen If You Don't Attend

If you do not attend the Panel may proceed to make a decision without you.

What Will Happen At the Hearing

After hearing all evidence and argument the Panel will decide whether the Executive Director has proven any of the breaches. If no breach is proven you will face no sanction.

If the Panel finds a breach is proven the Panel may do one or more of the things listed in **section 43** of the *Real Estate Act*:

- Cancel or suspend your authorization
- Order you to pay a fine for each breach
- Order you to pay the cost of the investigation and the hearing
- Order you to complete an education course

Submitting Written Arguments After the Hearing

You can provide written arguments at the end of the hearing or after the end of the hearing

You must provide these to the **Hearings Administrator and Counsel for the Executive Director** (contact information below) **no later than 15 days after the end of the Hearing.**

Contact the Hearing Administrator if you need more time.

You Can Get Legal Advice

You may get legal advice and may be represented by legal counsel at the hearing.

If you do not have a representative please read *Information for Unrepresented Industry Members*:

<http://www.reca.ca/industry/content/publications-resources/guides.htm>.

If You Object to a Panel Member

Please review who is on the Panel. If you object to any of the people being on the Panel, you must advise the Hearings Administrator **who you object to and why within 14 days** of receiving this Notice.

If you do not object to the Panel within 14 days, this Panel will conduct the hearing.

Postponing the Hearing

If you are not available on the date set for the hearing you can apply to the Panel for a new date. Contact the lawyer for the Executive Director and the Hearings Administrator as soon as possible if you need a new date.

Dated at Calgary, Alberta, on January 28, 2019.

(date)

Charles Stevenson, for

Bob Myroniuk, Executive Director
of the Real Estate Council of Alberta

Contact Information

Hearings Administrator: Email: hearingsadmin@reca.ca Fax: 403 228 3065 Direct: 403 685 7913 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9	Lawyer for the Executive Director: Email: conductadmin@reca.ca Fax: 403 228 3065 Direct: 403 685 7944 Toll Free: 1 888 425 2754 Address: Real Estate Council Suite 202, 1506 11 Avenue SW Calgary, Alberta T3C 0M9
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