

March 12, 2019

April 8, 2019

# Case Summaries

Letters of Reprimand

Administrative Penalty

Hearing Panel Decisions

# 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

### [Elizabeth Bergeron](#),

Real estate associate registered with BGB Realty Inc. o/a Re/Max Realty Professionals

- industry members must not engage in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute [s.42(g) of the *Real Estate Act* Rules]
- in August 2018, Ms. Bergeron sent out her monthly newsletter
- inside the newsletter Ms. Bergeron included before and after staging photos of a client's bedroom, with a comment saying "please, don't go to market looking like this, and don't let your friends!"
- Ms. Bergeron's clients were insulted by the comments

### [Richard Bergeron](#),

Real estate associate broker registered with BGB Realty Inc.  
o/a Re/Max Realty Professionals

- industry members must not engage in conduct that undermines public confidence in the industry, harms the integrity of the industry, or brings the industry into disrepute [s.42(g) of the *Real Estate Act* Rules]
- in August 2018, Mr. Bergeron authorized an associate to send out a monthly newsletter
- inside the newsletter, the associate included before and after staging photos of a client's bedroom, with a comment saying "please, don't go to market looking like this, and don't let your friends!"
- the clients of the brokerage were insulted by the comments

Industry professionals must treat clients with respect and professionalism. This includes having respect for a client and their property. In these cases, it was inappropriate for the associate and the associate broker to post negative comments referencing a picture of their client's property.

# Letters of Reprimand

## Nancy Meidinger

Real estate associate registered with Red Key Realty & Property Management Ltd.  
o/a Red Key Realty & Property Management

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]

Industry members must immediately notify, in writing, the executive director when certain events occur. In this case, the industry professional had a situation requiring notification occur months before notifying the executive director. Immediately is defined as “without delay,” and in the absence of extraordinary circumstances, written notification to the executive director should occur not more than five days after the event in question.

## Hongyu Mu

Mortgage broker registered with Gentai Capital Corporation

- an industry member must not delegate, assign, request, direct, or in any way allow an unlicensed or unregistered assistant to perform tasks that must only be performed by an industry professional [section 46(2) of the *Real Estate Act Rules*]
- Ms. Mu directed Ms. Wang, a mortgage administrator at Acer Mortgage Lending Corp., to contact RECA to re-open the brokerage
- Ms. Wang was not registered as a brokerage administrator
- Ms. Wang is not authorized to have access to Ms. Mu’s myRECA account

Industry members are expected to know who is authorized to have access to the brokerage’s myRECA account. In this case, Ms. Mu should not have directed a mortgage administrator to contact RECA or given her access to her myRECA account. The brokerage administrator was not registered and therefore should have never been granted access.

# Administrative Penalty

[Holly Kowalchuk](#),

Real estate associate registered with Elite Ownership Group Ltd. o/a Re/Max Elite

- Mr. Kowalchuk failed to take reasonable steps to discover relevant facts pertaining to a property for which the buyer is considering making an offer [s.58(i) of the *Real Estate Act Rules*]
- Ms. Kowalchuk received several concerns from her clients regarding the presence of asbestos on the seller's property
- Ms. Kowalchuk failed to ask the seller, or the seller's agent if the property contained materials comprised of asbestos
- \$1,500

Industry professionals must take reasonable steps to determine facts about a property in order to address the concerns a buyer client may have. This includes, at a minimum, requesting relevant information from a seller or seller's agent on an issue. If satisfactory information cannot be obtained, the client needs to be informed of any available options to deal with their concerns, which may include consultation with an expert.

# Hearing Panel Decision

[Mark Holtom](#),

Mortgage Associate registered with Mortgage Mentors Inc.  
o/a Dominion Lending Centres Mortgage Mentors

## Hearing Panel Decision – Application to Discontinue Proceedings Pursuant to s.45 of the *Real Estate Act*

The executive director applied to the Hearing Panel to discontinue proceedings against Mark Charles Holtom. The executive director was not prepared to call his only witness due to concerns for her health. On this basis, there will be no evidence presented by the Executive Director and therefore he is requesting that the proceedings be discontinued.

Mr. Holtom has consented to the Executive Director's Application.

Based on the fact that there will be no evidence against Mr. Holtom, the Hearing Panel was satisfied that, pursuant to s.45, the circumstances do not justify the continuation of these proceedings.

The Hearing Panel granted the Application, and discontinued conduct proceedings against Mr. Holtom.

# Hearing Panel Decision

## John William Osborne,

Real estate broker previously registered with J.W. Osborne and Associates Ltd.

### Issues:

- If a brokerage represents a seller and a buyer in an agency relationship and the buyer is interested in the seller's property, the parties may enter into a transaction brokerage agreement [s.59 of the *Real Estate Act Rules*]
- Industry members must ensure the role of the industry member is clearly understood by their clients and third parties [s.41(e) of the *Real Estate Act Rules*]

### Facts:

- In or around January 2014, J.W. Osborne and Associates Ltd. entered into an exclusive seller representation agreement to attempt to sell or lease a property on behalf of a company
- In June or July 2014, Mr. Osborne showed the property to a potential leaser, he never showed them any other properties
- Between approximately June and July 2014, Mr. Osborne failed to ensure that his role was clearly understood by the potential leaser customer
- Mr. Osborne asked his seller client if he could assume the role as a brokerage facilitator in this instance, the seller agreed
- Mr. Osborne never provided the potential leaser a standalone written transaction brokerage agreement
- Mr. Osborne continued to assist both the seller client, and leaser customer in negotiating and drafting an agreement for the lease of the property. Both parties had the benefit of consulting independent legal advice prior to signing the final form of the lease and neither party raised any concerns with Mr. Osborne about his conduct as a transaction facilitator

### Outcome:

Mr. Osborne is deemed to have engaged in conduct deserving of sanction. The Hearing Panel ordered the following:

1. fines for breaching s.59 and s.41(e) of the *Real Estate Act Rules* totalling \$3,000
2. Mr. Osborne is required to successfully complete the following education course:
  - a) Understanding Designated Agency and Transaction Brokerage – Session 2;
  - b) Real Estate Update 2009-2010 – Unit 2, Session 2; and
  - c) Real Estate Update 2009-2010 – Unit 3, Session 1;
3. Costs of \$500

## 2018-2019 Council Members

---

### BOBBI DAWSON

Appointed from the boards outside of Calgary and Edmonton

### AMINA DEIAB

Appointed from the public

### RAMEY DEMIAN

Appointed from the industrial, commercial and investment real estate sector

### JT DHOOT

Appointed from non-AREA industry members

### BILL KIRK

Appointed from the Calgary Real Estate Board

### BRIAN KLINGSPON, PAST CHAIR

Appointed from the REALTORS® Association of Edmonton

### TIAGO LAGE

Appointed from the public

### PHIL MCDOWELL

Appointed from the mortgage brokerage sector

### STAN MILLS

Appointed from the boards outside of Calgary and Edmonton

### ROBYN MOSER

Appointed from residential real estate industry members

### ROBERT TELFORD, CHAIR

Appointed from the real estate appraisal sector

### CHRISTINE ZWOZDESKY

Appointed from the property management sector

## RECA Management

---

### BOB MYRONIUK

Executive Director

### JEAN FLANAGAN

Director of Strategic Initiatives & External Relations

### WARREN MARTINSON

Director of Corporate Services

### JOSEPH FERNANDEZ

Director of Education Programs

### CHARLES STEVENSON

Registrar

### STACY PAQUIN

General Counsel & Corporate Secretary

### CONTACT RECA

The Case Summaries is published by the Real Estate Council of Alberta.

Please forward any questions regarding the content of the Case Summaries, or any questions regarding licensing or mandatory education, to [info@reca.ca](mailto:info@reca.ca)



202, 1506 11 Avenue SW,  
Calgary, AB T3C 0M9  
Phone (403) 228-2954  
Toll-free 1-888-425-2754  
Fax (403) 228-3065  
[www.reca.ca](http://www.reca.ca)