

THE REAL ESTATE COUNCIL OF ALBERTA

Case: 005064  
Process: A Hearing under Part 3 of the *Real Estate Act*  
Industry Member: Mehboob Ali Merchant  
Class of License: Real Estate Associate  
Registration: Currently registered with Century 21 Platinum Realty Inc.  
Document: NOTICE OF HEARING

TO: Mehboob Ali Merchant,

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

**Hearing Information**

Date: Monday, June 3, 2019, Tuesday, June 4, 2019,  
Wednesday, June 5, 2019 and Thursday, June 6, 2019  
Time: 9:30 a.m.  
Location: The Nakiska Room, 2<sup>nd</sup> Floor  
1506 11 Avenue SW, Calgary, Alberta

Hearing Panel:

Ramey Demian -	Chair, Panel member (Council Member)
Kevin Hall -	Panel member (Industry Member)
Julia Jones -	Decision Writer, Panel member (Public Member)
Anthony Dekens -	Panel Independent Legal Counsel

The Hearing Panel member alternates are:

Bill Kirk -	Chair, Panel member (Council Member)
Stan Kushner-	Panel member (Industry Member)
Kevin Kelly -	Decision Writer, Panel member (Public Member)

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

1. On or around February 7 2011, you received \$20,000 in connection to the sale of a condo. The \$20,000 was the rightful property of your brokerage. You took that money for your own personal use and thereby committed theft and breached section 42(b) of the Real Estate Act Rules:
  - a) On January 22, 2011 your client MB purchased a condo at [{"Address"}] in Edmonton, Alberta (the "condo").
  - b) Your brokerage agreement with MB stated that she would pay the brokerage as remuneration \$20,000 for the sale.
  - c) On February 7, 2011, MB wrote a cheque to [{"Company"}] for \$20,000. It was cashed on February 14, 2011.
  - d) [{"Company"}] is your holding company.
  - e) You retained this money for your own personal use, and at no point provided it to your brokerage.
  
2. On or around February 7 2011, you received \$20,000 directly from your client in connection to the sale of the condo. You accepted that money as commission, and thereby breached section 54(1)(c) of the Real Estate Act Rules:
  - a) Pursuant to section 54(1)(c), you are only permitted to receive commission through the brokerage to which you are registered.
  
3. Between September 2014 and November 2014, you offered property management services to MB in regard to her condo. However, you were not authorized to do so by Council and thereby breached section 17 of the *Real Estate Act*.

4. Between January 2015 and February 2015, you rented MB's condo without her knowledge or permission, and thereby committed fraud against MB and breached section 42(b) of the Real Estate Act Rules:
  - a) While you did have permission to show the condo to prospective tenants, you did not have permission to rent it.
  - b) On or about December 31, 2014, you signed a lease ("lease #1") for the condo with GC (the "tenant"). Lease #1 started on January 1, 2015, and rent was \$1995 per month. The landlord on Lease #1 was a company whose director is your wife.
  - c) On or about January 21, 2015, you told MB that no one was renting her condo, however your office had come up with a solution. You told this to MB for the purpose of deceiving her.
  - d) On or around January 30, 2015, you attempted to enter into a lease ("lease #2") with MB for the condo. Lease #2 started February 1, 2015, and rent was \$1200. The tenant on lease #2 was ["Company1"], a company name that you registered in an attempt to mislead MB into believing your brokerage was actually renting the condo.
  - e) The purpose of lease #2 was so that you could profit from the difference between what the condo was actually being rented for, and the amount you were paying MB.
  - f) On or around February 6, 2015, MB declined lease #2.
  - g) You did not tell MB about the tenant that was occupying her condo until on or around February 9, 2015.
  - h) You retained the money that was collected from the tenant.
  
5. On or around December 31, 2014, you entered into lease #1 with the tenant. You did not advise the tenant that you were renting the condo without permission of the owner, and thereby committed fraud against the tenant and breached section 42(b) of the Real Estate Act Rules.

- a) Once MB discovered that you had rented her condo without authorization, she required that the tenant be removed.
  - b) The tenant therefore had to leave the unit suddenly and before the end of the tenancy.
  - c) The tenant suffered financial losses from having to suddenly move.
6. On or around December 31, 2014, you entered into lease #1 with the tenant. The landlord on this lease was listed as [{"Company2"}], a corporation whose director is your wife. You forged your wife's signature on lease #1, and thereby committed forgery and breached section 42(b) of the Real Estate Act Rules.
  7. On or around January 30, 2015, you attempted to enter into lease #2 with MB by pretending that the tenant on the lease was your brokerage. The tenant was actually you. You did this for the purpose of personally profiting, and thereby committed identity fraud and breached section 42(b) of the Real Estate Act Rules.
  8. Between April 20, 2015 and July 21, 2015, RECA investigators asked you multiple times to provide a copy of lease #1 and copies of all correspondence in regard to the lease. You intentionally withheld these documents, and thereby breached section 38(4.1) of the *Real Estate Act*.

### **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 May 1, 2019.

*Charles Stevenson for*

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

### Contact Information

Hearings Administrator: Email: <a href="mailto:hearingsadmin@reca.ca">hearingsadmin@reca.ca</a> 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: <a href="mailto:conductadmin@reca.ca">conductadmin@reca.ca</a> 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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