

September 10, 2019

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Case Summaries

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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*.

Questions about disciplinary information RECA publishes and why? Review [RECA's Publication Guidelines](#) online.

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

[Wendy Lambkin](#),

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

- an industry member who establishes a client relationship when trading in residential real estate, property management, or when dealing in mortgages must enter into a written service agreement with that prospective client [s.43(1) of the *Real Estate Act* Rules]
- in April 2018, Ms. Lambkin established a client relationship with potential buyers
- Ms. Lambkin showed the buyers multiple properties
- Ms. Lambkin failed to obtain their signatures on an Exclusive Buyer's Representation Agreement

Industry professionals who establish a client relationship must enter into a written service agreement with the prospective clients. In this case, the associate failed to obtain the signatures of her clients on an Exclusive Buyer's Representation Agreement.

[Wendy Lambkin](#),

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

- an industry member must not disclose information regarding a client, property or transaction to another person unless authorized by the client, or required by law [s.44(1) of the *Real Estate Act* Rules]
- in April 2019, Ms. Lambkin was speaking with a neighbour and provided confidential information regarding her client's service agreement

Industry professionals are obligated to protect client information. Client information may only be used for the purposes it was collected and can never be provided to a third party without written consent from the client. In this case, the associate should have never discussed a client agreement with a third party.

Letters of Reprimand

Shelly Shumaker,

Real estate associate registered with 1063268 Alberta Ltd.

O/A Century 21 Reward Realty

- industry members must provide competent service [s.41(b) of the *Real Estate Act Rules*]
- Ms. Shumaker represented a property stating it had an above grade size of 752 square feet
- Ms. Shumaker used a sketch provided by the owner
- Ms. Shumaker stated that she remeasured to confirm the size according to the sketch
- Ms. Shumaker could not provide any supporting documents showing that she measured the property
- a professional measuring company found the Residential Measurement Standards (RMS) size of the property to be 700 square feet

The RMS guidelines were created to offer a consistent means of representing a property's above grade space, thereby allowing interested parties to accurately evaluate the merits of a property. Therefore, when representing the size of a residential property, competent real estate industry professionals must measure the property using RMS or engage a third party to measure the property using RMS.

Administrative Penalties

Jared Keary,

Real estate associate registered with Emerald Management & Realty Ltd., currently registered with Magnum York Property Management Ltd.

- 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 or around March 2018, Mr. Keary while acting on behalf of his brokerage, offered to award landscaping contracts to a service provider in exchange for personal compensation
- in or around February 2019, Mr. Keary drafted a proposal with the intention of disseminating confidential information to competing brokerages
- multiple instances of unprofessional conduct occurred
- \$3,000

Professionalism is a standard of conduct based on ethics that govern the real estate industry. Industry professionals must conduct themselves honestly and ethically when in the care and control of money, property, and information.

Shelly Shumaker,

Real estate associate registered with 1063268 Alberta Ltd.

O/A Century 21 Reward 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*]
- in November 2018, Ms. Shumaker was the listing agent for a property
- Ms. Shumaker obtained the RMS size of the property by measuring the property with the owner
- the RMS size was incorrect
- a potential buyer and their associate asked how Ms. Shumaker arrived at the RMS size, and Ms. Shumaker stated that the property was professional measured; this was false
- the potential buyer ended up buying the property and found out later the correct RMS size was 57 square feet smaller
- \$3,000

Industry professionals must not carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so. Ms. Shumaker should have had the property professional measured before listing the property to ensure the RMS size was correct. Ms. Shumaker should not have misled potential buyers about how the property was measured.

Administrative Penalties

[Joe Youssif Ammar](#),

Real estate associate not currently authorized

- failure to immediately notify, in writing, the executive director [s.40 of the *Real Estate Act Rules*]
- \$1,000

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 several months before he notified 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.

[Joe Youssif Ammar](#),

Real estate associate not currently authorized

- 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*]
- in March 2018, proceedings pursuant to the Criminal Code were commenced against Mr. Ammar
- in September 2018, Mr. Ammar was completing his licence renewal application, and was asked if he had been charged with a criminal offence
- Mr. Ammar answered “no” to this question, this was false
- \$1,500

RECA's licensing applications are important documents that industry professionals must answer trustfully and accurately. The executive director uses the suitability questions asked in licensing application to determine whether industry professionals are of good character and competent to provide services to the public.

Administrative Penalties

[Michael Brooks](#),

Not authorized

- a person who is required under subsection (2) to answer the questions of a person conducting an investigation shall co-operate with the investigator and promptly respond to the questions [s. 38(4)(a) of the *Real Estate Act* Rules]
- a person conducting an investigation into an industry member requested information relevant to the investigation
- Mr. Brooks failed to cooperate and provide the information requested
- \$5,000

When conducting an investigation, RECA may ask a person produce any books, documents, records and other things in that person's possession or under that person's control that are relevant to the investigation, and demand that any person answer any questions that are relevant to the investigation. In this case, Mr. Brooks repeatedly refused to cooperate with a RECA investigator.

Administrative Penalties

Muthui Mwangi,

Unlicensed

- no person shall trade in real estate as a real estate broker, unless that person holds the appropriate authorization for that purpose issued by the Council [s.17(a) of the *Real Estate Act*]
- in July 2016, Mr. Mwangi placed a for sale sign on a property with his contact information
- Mr. Mwangi met with potential buyers with the purpose of showing them the property
- Mr. Mwangi met with potential buyers with the purpose of completing a residential purchase contract for the property
- \$10,000

Muthui Mwangi,

Unlicensed

- no person shall deal as a mortgage broker, unless that person holds the appropriate authorization for the purpose issued by the Council [s.17(b) of the *Real Estate Act*]
- Mr. Mwangi met with potential buyers in July 2016 with the purpose of collecting documentation to secure mortgage financing
- Mr. Mwangi forward a link via email to potential buyers that included a mortgage application
- Mr. Mwangi had the potential buyers provide him with a completed mortgage application containing personal information, banking documentation, paystubs and a letter of employment
- Mr. Mwangi provided altered banking documentation to a mortgage associate in order to secure mortgage financing for the potential buyers without their knowledge
- \$10,000

Administrative Penalties

[Irfaan Shahzad](#),

Not authorized

- no person shall trade in real estate as a real estate broker, unless that person holds the appropriate authorization for that purpose issued by the Council [s.17(a) of the *Real Estate Act*]
- In or around January 2018, Mr. Shahzad arranged a buyer for a property for a property
- Mr. Shahzad was assisting the seller
- Mr. Shahzad activities required authorization to trade in real estate in Alberta, as a real estate associate
- \$15,000

No person shall trade in real estate as a real estate broker, unless that person holds the appropriate authorization for that purpose issued by Council. In these cases, the individuals listed services they were not authorized to provide. Unlicensed persons who provide services that require a licence put consumers at serious risk. Unlicensed persons do not have the required education or errors and omissions insurance, and consumers working with unlicensed persons do not receive protection under the Real Estate Assurance Fund.

Cancellation

Paramjit Kaur Aulakh: Real Estate and Mortgage Licences Cancelled

On August 20, 2019, a Hearing Panel for the Real Estate Council of Alberta (RECA) cancelled the real estate and mortgage licences of Paramjit Kaur Aulakh, effective August 20, 2019. Ms. Aulakh is not eligible to reapply for any new licence from RECA until August 21, 2021.

The Panel cancelled Ms. Aulakh's licences due to the nature and gravity of the proven allegations, as well as the impact on the clients involved and the reputation of the real estate industry.

The Hearing Panel concluded that Ms. Aulakh's actions were contrary to the *Real Estate Act Rules*, including that Ms. Aulakh:

- participated in fraudulent or unlawful activities in connection with the provision of services or any dealings [s.42(b) of the *Real Estate Act Rules*]
- provided services to her client in a trade or anticipated trade in which she had a conflict of interest without receiving their written and informed consent [s.54(3) of the *Real Estate Act Rules*]
- failed to:
 - » provide competent service to her client [s.41(b) of the *Real Estate Act Rules*]
 - » disclose the details of compensation for services [s.41(c) of the *Real Estate Act Rules*]
 - » ensure her role in the transaction was clearly understood by the client [s.41(e) of the *Real Estate Act Rules*]
 - » disclose the existence of conflict of interest [s.41(f) of the *Real Estate Act Rules*]
 - » fulfil her fiduciary duty of loyalty or confidentiality to the client [s.57(e) of the *Real Estate Act Rules*]

As a result of this cancellation, Ms. Aulakh may not trade in real estate or deal in mortgages in Alberta. Before being eligible to apply for a licence Ms. Aulakh must successfully satisfy all pre-licensing education requirements.

Ms. Aulakh was registered with 1426300 Alberta Ltd. O/A Realty Executives Progressive and Centum Accord Mortgage Inc. at the time of the sanctioned activities.

Ms. Aulakh was most recently registered with Excellence Real Estate Edmonton Ltd. O/A RE/MAX Excellence and Centum Accord Mortgage Inc.

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Appointed from the boards outside of Calgary and Edmonton

VACANT

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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



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